PUBLIC LAWS

(CONTINUED)

Public Law 102-240
102d Congress

An Act

Dec. 18, 1991
[H.R. 2950]

To develop a national intermodal surface transportation system, to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

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

Intermodal Surface Transportation Efficiency Act of 1991.
Intergovernmental relations.
49 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intermodal Surface Transportation Efficiency Act of 1991".

49 USC 101 note.

SEC. 2. DECLARATION OF POLICY: INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT.

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.

The National Intermodal Transportation System shall include a National Highway System which consists of the National System of Interstate and Defense Highways and those principal arterial roads which are essential for interstate and regional commerce and travel, national defense, intermodal transfer facilities, and international commerce and border crossings.

The National Intermodal Transportation System shall include significant improvements in public transportation necessary to achieve national goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly persons, persons with disabilities, and economically disadvantaged persons in urban and rural areas of the country.

The National Intermodal Transportation System shall provide improved access to ports and airports, the Nation's link to world commerce.

The National Intermodal Transportation System shall give special emphasis to the contributions of the transportation sectors to increased productivity growth. Social benefits must be considered with particular attention to the external benefits of reduced air pollution, reduced traffic congestion and other aspects of the quality of life in the United States.

The National Intermodal Transportation System must be operated and maintained with insistent attention to the concepts of innovation, competition, energy efficiency, productivity, growth, and accountability. Practices that resulted in the lengthy and overly

costly construction of the Interstate and Defense Highway System must be confronted and ceased.

The National Intermodal Transportation System shall be adapted to "intelligent vehicles", "magnetic levitation systems", and other new technologies wherever feasible and economical, with benefit cost estimates given special emphasis concerning safety considerations and techniques for cost allocation.

The National Intermodal Transportation System, where appropriate, will be financed, as regards Federal apportionments and reimbursements, by the Highway Trust Fund. Financial assistance will be provided to State and local governments and their instrumentalities to help implement national goals relating to mobility for elderly persons, persons with disabilities, and economically disadvantaged persons.

The National Intermodal Transportation System must be the centerpiece of a national investment commitment to create the new wealth of the Nation for the 21st century.

The Secretary shall distribute copies of this Declaration of Policy to each employee of the Department of Transportation and shall ensure that such Declaration of Policy is posted in all offices of the Department of Transportation.

SEC. 3. SECRETARY DEFINED. 49 USC 101 note.

As used in this Act, the term "Secretary" means the Secretary of Transportation.

TITLE I—SURFACE TRANSPORTATION

Part A—Title 23 Programs

SEC. 1001. COMPLETION OF INTERSTATE SYSTEM.

(a) DECLARATION.—Congress declares that the authorizations of appropriations and apportionments for construction of the Dwight D. Eisenhower National System of Interstate and Defense Highways made by this section (including the amendments made by this section) are the final authorizations of appropriations and apportionments for completion of construction of such System. 23 USC 104 note.

(b) APPROVAL OF INTERSTATE COST ESTIMATE FOR FISCAL YEAR 1993.—The Secretary shall apportion for all States (other than Massachusetts) for fiscal year 1993 the sums authorized to be appropriated for such year by section 108(b) of the Federal-Aid Highway Act of 1956 for expenditure on the Dwight D. Eisenhower National System of Interstate and Defense Highways, using the apportionment factors contained in revised table 5 of the Committee Print Numbered 102-24 of the Committee on Public Works and Transportation of the House of Representatives.

(c) EXTENSION OF APPORTIONMENT.—Section 104(b)(5)(A) of title 23, United States Code, is amended by striking "1960 through 1990" each place it appears and inserting "1960 through 1996". 23 USC 104 note.

(d) EXTENSION OF ADMINISTRATIVE ADJUSTMENT OF ICE.—Section 104(b)(5)(A) of such title is amended by striking the next to the last sentence and inserting the following new sentence: "As soon as practicable after the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991 for fiscal year 1992, and on October 1 of each of fiscal years 1993, 1994, and 1995, the Secretary shall make the apportionment required by this subpara-

graph for all States (other than Massachusetts) using the Federal share of the last estimate submitted to Congress, adjusted to reflect (i) all previous credits, apportionments of interstate construction funds, and lapses of previous apportionments of interstate construction funds, (ii) previous withdrawals of interstate segments, (iii) previous allocations of interstate discretionary funds, and (iv) transfers of interstate construction funds.".

(e) ALLOCATION OF FUNDS TO MASSACHUSETTS.—Section 104(b)(5)(A) of title 23, United States Code, is amended by inserting before the last sentence the following new sentence: "Notwithstanding any other provision of this subparagraph or any cost estimate approved or adjusted pursuant to this subparagraph, subject to the deductions under this section, the amounts to be apportioned to the State of Massachusetts pursuant to this subparagraph for fiscal years 1993, 1994, 1995, and 1996 shall be as follows: $450,000,000 for fiscal year 1993, $800,000,000 for fiscal year 1994, $800,000,000 for fiscal year 1995, and $500,000,000 for fiscal year 1996.".

23 USC 101 note.

(f) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of subsection (b) of section 108 of the Federal-Aid Highway Act of 1956 is amended by striking "and the additional sum of $1,400,000,000 for the fiscal year ending September 30, 1993." and inserting the following: "the additional sum of $1,800,000,000 for the fiscal year ending September 30, 1993, the additional sum of $1,800,000,000 for the fiscal year ending September 30, 1994, the additional sum of $1,800,000,000 for the fiscal year ending September 30, 1995, and the additional sum of $1,800,000,000 for the fiscal year ending September 30, 1996.".

(g) DECLARATION OF POLICY.—The second paragraph of section 101(b) of such title is amended—

(1) by striking "thirty-seven years' " and inserting "forty years' "; and

(2) by striking "1993" and inserting "1996".

(h) TERMINATION OF MINIMUM APPORTIONMENT.—Section 102(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (23 U.S.C. 104 note) is amended by inserting after "1987," the following: "and ending before October 1, 1991,".

23 USC 104 note.

SEC. 1002. OBLIGATION CEILING.

(a) GENERAL LIMITATION.—Notwithstanding any other provision of law (other than subsection (f) of this section), the total of all obligations for Federal-aid highways and highway safety construction programs shall not exceed—

(1) $16,800,000,000 for fiscal year 1992;
(2) $18,303,000,000 for fiscal year 1993;
(3) $18,362,000,000 for fiscal year 1994;
(4) $18,332,000,000 for fiscal year 1995;
(5) $18,357,000,000 for fiscal year 1996; and
(6) $18,338,000,000 for fiscal year 1997.

(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations—

(1) under section 125 of title 23, United States Code;
(2) under section 157 of such title;
(3) under section 147 of the Surface Transportation Assistance Act of 1978;
(4) under section 9 of the Federal-Aid Highway Act of 1981;
(5) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982;

(6) under section 404 of the Surface Transportation Assistance Act of 1982; and

(7) under sections 1103 through 1108 of this Act.

Such limitations shall also not apply to obligations of funds made available by subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—

(1) GENERAL RULE.—For each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, the Secretary shall distribute the limitation imposed by subsection (a) by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to each State for such fiscal year bears to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction which are apportioned or allocated to all the States for such fiscal year.

(2) SPECIAL RULE FOR MASSACHUSETTS.—For purposes of this section, funds apportioned to the State of Massachusetts pursuant to the next to the last sentence of section 104(b)(5)(A) of title 23, United States Code, shall be treated as if such funds were allocated to such State under such title. If, before October 1 of each of fiscal years 1992, 1993, 1994, and 1995, the State of Massachusetts indicates it will not obligate a portion of the amount which would be distributed to such State under the preceding sentence, the Secretary shall distribute such portion to the other States under paragraph (1).

(d) LIMITATION ON OBLIGATION AUTHORITY.—During the period October 1 through December 31 of each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, no State shall obligate more than 35 percent of the amount distributed to such State under subsection (c) for such fiscal year, and the total of all State obligations during such period shall not exceed 25 percent of the total amount distributed to all States under such subsection for such fiscal year.

(e) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsections (c) and (d), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction which have been apportioned or allocated to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1 of each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, revise a distribution of the funds made available under subsection (c) for such fiscal year if a State will not obligate the amount distributed during such fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during such fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code; and

(3) not distribute amounts authorized for administrative expenses, Federal lands highways programs, and the national high speed ground transportation programs and amounts made available under section 149(d) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

(f) ADDITIONAL OBLIGATION AUTHORITY.—

(1) IN GENERAL.—Subject to paragraph (2), a State which after August 1 and on or before September 30 of fiscal year 1993, 1994, 1995, 1996, or 1997 obligates the amount distributed to such State in such fiscal year under subsections (c) and (e) may obligate for Federal-aid highways and highway safety construction on or before September 30 of such fiscal year an additional amount not to exceed 5 percent of the aggregate amount of funds apportioned or allocated to such State—

(A) under sections 104 and 144 of title 23, United States Code, and

(B) for highway assistance projects under section 103(e)(4) of such title,

which are not obligated on the date such State completes obligation of the amount so distributed.

(2) LIMITATION ON ADDITIONAL OBLIGATION AUTHORITY.—During the period August 2 through September 30 of each of fiscal years 1993, 1994, 1995, 1996, and 1997, the aggregate amount which may be obligated by all States pursuant to paragraph (1) shall not exceed 2.5 percent of the aggregate amount of funds apportioned or allocated to all States—

(A) under sections 104 and 144 of title 23, United States Code, and

(B) for highway assistance projects under section 103(e)(4) of such title,

which would not be obligated in such fiscal year if the total amount of obligational authority provided by subsection (a) for such fiscal year were utilized.

(3) LIMITATION ON APPLICABILITY.—Paragraph (1) shall not apply to any State which on or after August 1 of fiscal year 1993, 1994, 1995, 1996, or 1997, as the case may be, has the amount distributed to such State under subsection (c) for such fiscal year reduced under subsection (e)(2).

(g) OBLIGATION CEILING FOR HIGHWAY SAFETY PROGRAMS.—Notwithstanding any other provision of law, the total of all obligations for highway safety programs carried out by the Federal Highway Administration under section 402 of title 23, United States Code, shall not exceed $10,000,000 for fiscal year 1992 and $20,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(h) CONFORMING AMENDMENT.—Section 157(b) of title 23, United States Code, is amended by striking the period at the end of the last sentence and inserting "and section 1002(c) of the Intermodal Surface Transportation Efficiency Act of 1991.".

SEC. 1003. AUTHORIZATION OF APPROPRIATIONS.

(a) FROM THE HIGHWAY TRUST FUND.—For the purpose of carrying out the provisions of title 23, United States Code, the following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program $2,431,000,000 for fiscal year 1992, $2,913,000,000 for fiscal year 1993, $2,914,000,000 for fiscal year 1994, $2,914,000,000 for fiscal year 1995, $2,914,000,000 for fiscal year 1996, and $2,914,000,000 for fiscal year 1997.

(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System $3,003,000,000 for fiscal year 1992, $3,599,000,000 for fiscal year 1993, $3,599,000,000 for fiscal year 1994,

$3,599,000,000 for fiscal year 1995, $3,600,000,000 for fiscal year 1996, and $3,600,000,000 for fiscal year 1997.

(3) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program $3,418,000,000 for fiscal year 1992, $4,096,000,000 for fiscal year 1993, $4,096,000,000 for fiscal year 1994, $4,096,000,000 for fiscal year 1995, $4,097,000,000 for fiscal year 1996, and $4,097,000,000 for fiscal year 1997.

(4) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program $858,000,000 for fiscal year 1992, $1,028,000,000 for fiscal year 1993, $1,028,000,000 for fiscal year 1994, $1,028,000,000 for fiscal year 1995, $1,029,000,000 for fiscal year 1996, and $1,029,000,000 for fiscal year 1997.

(5) BRIDGE PROGRAM.—For the bridge program $2,288,000,000 for fiscal year 1992, $2,762,000,000 for fiscal year 1993, $2,762,000,000 for fiscal year 1994, $2,762,000,000 for fiscal year 1995, $2,763,000,000 for fiscal year 1996, and $2,763,000,000 for fiscal year 1997.

(6) FEDERAL LANDS HIGHWAY PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads $159,000,000 for fiscal year 1992 and $191,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(B) PUBLIC LANDS HIGHWAYS.—For public lands highways $143,000,000 for fiscal year 1992, $171,000,000 for each of fiscal years 1993, 1994, and 1995, and $172,000,000 for each of fiscal years 1996 and 1997.

(C) PARKWAYS AND PARK HIGHWAYS.—For parkways and park highways $69,000,000 for fiscal year 1992, $83,000,000 for each of fiscal years 1993, 1994, and 1995, and $84,000,000 for each of fiscal years 1996 and 1997.

(7) FHWA HIGHWAY SAFETY PROGRAMS.—For carrying out section 402 by the Federal Highway Administration $17,000,000 for fiscal year 1992 and $20,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(8) FHWA HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For carrying out section 403 by the Federal Highway Administration $10,000,000 for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997.

(b) DISADVANTAGED BUSINESS ENTERPRISES.—

(1) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts authorized to be appropriated under titles I (other than part B), III, V, and VI of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(2) DEFINITIONS.—For purposes of this subsection, the following definitions apply:

(A) 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 $15,370,000, as adjusted by the Secretary for inflation.

(B) 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 subsection.

(3) 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) 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 also otherwise socially and economically disadvantaged individuals.

(4) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this subsection. 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.

(5) STUDY.—

(A) IN GENERAL.—The Comptroller General shall conduct a study of the disadvantaged business enterprise program of the Federal Highway Administration (hereinafter in this paragraph referred to as the "program").

(B) CONTENTS.—The study under this paragraph shall include the following:

(i) GRADUATION.—A determination of—

(I) the percentage of disadvantaged business enterprises which have enrolled in the program and graduated after a period of 3 years;

(II) the number of disadvantaged business enterprises which have enrolled in the program and not graduated after a period of 3 years;

(III) whether or not the graduation date of any of the disadvantaged business enterprises described in subclause (II) should have been accelerated;

(IV) since the program has no graduation time requirements, how many years would appear reasonable for disadvantaged business enterprises to participate in the program;

(V) the length of time the average small nondisadvantaged business enterprise takes to be successful in the highway construction field as compared to the average disadvantaged business enterprise; and

(VI) to what degree are disadvantaged business enterprises awarded contracts once they are no longer participating in the disadvantaged business program.

(ii) OUT-OF-STATE CONTRACTING.—A determination of which State transportation programs meet the requirement of the program for 10 percent participation by disadvantaged business enterprises by contracting with

contractors located in another State and a determination to what degree prime contractors use out-of-State disadvantaged business enterprises even when disadvantaged business enterprises exist within the State to meet the 10 percent participation goal and reasons why this occurs.

(iii) PROGRAM ADJUSTMENTS.—A determination of whether or not adjustments in the program could be made with respect to Federal and State participation in training programs and with respect to meeting capital needs and bonding requirements.

(iv) SUCCESS RATE.—Recommendations concerning whether or not adjustments described in clause (iii) would continue to encourage minority participation in the program and improve the success rate of the disadvantaged business enterprises.

(v) PERFORMANCE AND FINANCIAL CAPABILITIES.—Recommendations for additions and revisions to criteria used to determine the performance and financial capabilities of disadvantaged business enterprises enrolled in the program.

(vi) ENFORCEMENT MECHANISMS.—A determination of whether the current enforcement mechanisms are sufficient to ensure compliance with the disadvantaged business enterprise participation requirements.

(vii) ADDITIONAL COSTS.—A determination of additional costs incurred by the Federal Highway Administration in meeting the requirement of the program for 10 percent participation by disadvantaged business enterprises as well as a determination of benefits of the program.

(viii) EFFECT ON INDUSTRY.—A determination of how the program is being implemented by the construction industry and the effects of the program on all segments of the industry.

(ix) CERTIFICATION.—An analysis of the certification process for Federal-aid highway and transit programs, including a determination as to whether the process should be uniform and permit State-to-State reciprocity and how certification criteria and procedures are being implemented by the States.

(x) GOALS.—A determination of how the Federal goal is being implemented by the States, including the waiver process, and the impact of the goal on those individuals presumed to be socially and economically disadvantaged.

(C) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Comptroller General shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the study conducted under this paragraph.

(c) REDUCTION IN AUTHORIZATIONS FOR BUDGET COMPLIANCE.—If the total amount authorized by this Act out of the Highway Trust Fund (other than the Mass Transit Account) exceeds $17,042,000,000 for fiscal year 1992, or exceeds $98,642,000,000 for fiscal years 1992

through 1996, then each amount so authorized shall be reduced proportionately so that the total equals $17,042,000,000 for fiscal year 1992, or equals $98,642,000,000 for fiscal years 1992 through 1996, as the case may be.

SEC. 1004. BUDGET COMPLIANCE.

(a) IN GENERAL.—If obligations provided for programs pursuant to this Act for fiscal year 1992 will cause—

(1) the total outlays in any of the fiscal years 1992 through 1995 which result from this Act, to exceed

(2) the total outlays for such programs in any such fiscal year which result from appropriation Acts for fiscal year 1992 and are attributable to obligations for fiscal year 1992,

then the Secretary of Transportation shall reduce proportionately the obligations provided for each program pursuant to this Act for fiscal year 1992 to the extent required to avoid such excess outlays.

(b) COORDINATION WITH OTHER PROVISIONS.—The provisions of this section shall apply, notwithstanding any provision of this Act to the contrary.

SEC. 1005. DEFINITIONS.

(a) HIGHWAY SAFETY IMPROVEMENT PROJECT.—The undesignated paragraph of section 101(a) of title 23, United States Code, relating to highway safety improvement project is amended by inserting after "marking," the following: "installs priority control systems for emergency vehicles at signalized intersections,".

(b) URBANIZED AREA.—Such section is amended by striking the undesignated paragraph relating to urbanized area and inserting the following new undesignated paragraph:

"The term 'urbanized area' means an area with a population of 50,000 or more designated by the Bureau of the Census, within boundaries to be fixed by responsible State and local officials in cooperation with each other, subject to approval by the Secretary. Boundaries shall, at a minimum, encompass the entire urbanized area within a State as designated by the Bureau of the Census.".

(c) NATIONAL HIGHWAY SYSTEM.—Such section is further amended by striking the undesignated paragraph relating to the Federal-aid primary system and inserting the following new undesignated paragraph:

"The term 'National Highway System' means the Federal-aid highway system described in subsection (b) of section 103 of this title.".

(d) CONFORMING AMENDMENTS.—Such section is amended—

(1) by striking the undesignated paragraph relating to the Federal-aid secondary system;

(2) by striking the undesignated paragraph relating to the Federal-aid urban system;

(3) in the undesignated paragraph relating to Indian reservation roads by striking ", including roads on the Federal-aid systems,"; and

(4) in the undesignated paragraph relating to park road by inserting ", including a bridge built primarily for pedestrian use, but with capacity for use by emergency vehicles," before "that is located within".

(e) INTERSTATE SYSTEM.—The undesignated paragraph of such section relating to the Interstate System is amended by inserting "Dwight D. Eisenhower" before "National".

(f) OPERATIONAL IMPROVEMENT.—Such section is further amended by inserting after the undesignated paragraph relating to Interstate System the following new undesignated paragraph:

"The term 'operational improvement' means a capital improvement for installation of traffic surveillance and control equipment, computerized signal systems, motorist information systems, integrated traffic control systems, incident management programs, and transportation demand management facilities, strategies, and programs and such other capital improvements to public roads as the Secretary may designate, by regulation; except that such term does not include resurfacing, restoring, or rehabilitating improvements, construction of additional lanes, interchanges, and grade separations, and construction of a new facility on a new location.".

(g) STARTUP COSTS FOR TRAFFIC MANAGEMENT AND CONTROL; CARPOOL PROJECT; PUBLIC AUTHORITY; PUBLIC LANDS HIGHWAY; RECONSTRUCTION.—Such section is further amended by inserting after the undesignated paragraph relating to Interstate System the following new undesignated paragraphs:

"The term 'startup costs for traffic management and control' means initial costs (including labor costs, administration costs, cost of utilities, and rent) for integrated traffic control systems, incident management programs, and traffic control centers.

"The term 'carpool project' means any project to encourage the use of carpools and vanpools, including but not limited to provision of carpooling opportunities to the elderly and handicapped, systems for locating potential riders and informing them of carpool opportunities, acquiring vehicles for carpool use, designating existing highway lanes as preferential carpool highway lanes, providing related traffic control devices, and designating existing facilities for use for preferential parking for carpools.

"The term 'public authority' means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

"The term 'public lands highway' means a forest road under the jurisdiction of and maintained by a public authority and open to public travel or any highway through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations under the jurisdiction of and maintained by a public authority and open to public travel.".

SEC. 1006. NATIONAL HIGHWAY SYSTEM.

(a) ESTABLISHMENT.—Section 103 of title 23, United States Code, is amended by striking subsections (a) and (b) and inserting the following new subsections:

"(a) IN GENERAL.—For purposes of this title, the Federal-aid systems are the Interstate System and the National Highway System.

"(b) NATIONAL HIGHWAY SYSTEM.—

"(1) PURPOSE.—The purpose of the National Highway System is to provide an interconnected system of principal arterial routes which will serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and other major travel destinations; meet national defense requirements; and serve interstate and interregional travel.

"(2) COMPONENTS.—The National Highway System shall consist of the following:

"(A) Highways designated as part of the Interstate System under subsection (e) and section 139 of this title.

"(B) Other urban and rural principal arterials and highways (including toll facilities) which provide motor vehicle access between such an arterial and a major port, airport, public transportation facility, or other intermodal transportation facility. The States, in cooperation with local and regional officials, shall propose to the Secretary arterials and highways for designation to the National Highway System under this paragraph. In urbanized areas, the local officials shall act through the metropolitan planning organizations designated for such areas under section 134 of this title. The routes on the National Highway System, as shown on the map submitted by the Secretary to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate in 1991, illustrating the National Highway System, shall serve as the basis for the States in proposing arterials and highways for designation to such system. The Secretary may modify or revise such proposals and submit such modified or revised proposals to Congress for approval in accordance with paragraph (3).

"(C) A strategic highway network which is a network of highways which are important to the United States strategic defense policy and which provide defense access, continuity, and emergency capabilities for the movement of personnel, materiels, and equipment in both peace time and war time. Such highways may include highways on and off the Interstate System and shall be designated by the Secretary in consultation with appropriate Federal agencies and the States and be subject to approval by Congress in accordance with paragraph (3).

"(D) Major strategic highway network connectors which are highways that provide motor vehicle access between major military installations and highways which are part of the strategic highway network. Such highways shall be designated by the Secretary in consultation with appropriate Federal agencies and the States and subject to approval by Congress in accordance with paragraph (3).

"(3) APPROVAL OF DESIGNATIONS.—

"(A) PROPOSED DESIGNATIONS.—Not later than 2 years after the date of the enactment of this section, the Secretary shall submit for approval to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a proposed National Highway System with a list and description of highways proposed to be designated to the National Highway System under this subsection and a map showing such proposed designations. In preparing the proposed system, the Secretary shall consult appropriate local officials and shall use the functional reclassification of roads and streets carried out under subsection (c) of section 1006 of the Intermodal Surface Transportation Efficiency Act of 1991.

"(B) APPROVAL OF CONGRESS REQUIRED.—After September 30, 1995, no funds made available for carrying out this title

may be apportioned for the National Highway System or the Interstate maintenance program under this title unless a law has been approved designating the National Highway System.

"(C) MAXIMUM MILEAGE.—For purposes of proposing highways for designation to the National Highway System, the mileage of highways on the National Highway System shall not exceed 155,000 miles; except that the Secretary may increase or decrease such maximum mileage by not to exceed 15 percent.

"(D) EQUITABLE ALLOCATIONS OF HIGHWAY MILEAGE.—In proposing highways for designation to the National Highway System, the Secretary shall provide for equitable allocation of highway mileage among the States.

"(4) INTERIM SYSTEM.—For fiscal years 1992, 1993, 1994, and 1995, highways classified as principal arterials by the States shall be treated as being on the National Highway System for purposes of this title.".

(b) CONFORMING AMENDMENTS TO SECTION 103.— 23 USC 103.

(1) REPEAL OF FEDERAL-AID SECONDARY AND URBAN SYSTEMS.—Subsections (c) and (d) of such section are repealed.

(2) APPROVAL.—Subsection (f) of such section is amended—

(A) by striking "the Federal-aid primary system, the Federal-aid secondary system, the Federal-aid urban system, and"; and

(B) by striking the last sentence.

(c) FUNCTIONAL RECLASSIFICATION OF HIGHWAYS.— 23 USC 103 note.

(1) STATE ACTION.—Each State shall functionally reclassify the roads and streets in such State in accordance with such guidelines and time schedule as the Secretary may establish in order to carry out the objectives of this section, including the amendments made by this section.

(2) APPROVAL AND SUBMISSION TO CONGRESS.—Not later than September 30, 1993, the Secretary shall approve the functional reclassification of roads and streets made by the States pursuant to this subsection and shall submit a report to Congress containing such reclassification. Reports.

(3) STATE DEFINED.—In this subsection, the term "State" has the meaning such term has under section 101 of title 23, United States Code, and shall include the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Marianas.

(d) PROJECT ELIGIBILITY.—Section 103 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(i) ELIGIBLE PROJECTS FOR NHS.—Subject to project approval by the Secretary, funds apportioned to a State under section 104(b)(1) for the National Highway System may be obligated for any of the following:

"(1) Construction, reconstruction, resurfacing, restoration, and rehabilitation of segments of such system.

"(2) Operational improvements for segments of such system.

"(3) Construction of, and operational improvements for, a Federal-aid highway not on the National Highway System and construction of a transit project eligible for assistance under the Federal Transit Act—

"(A) if such highway or transit project is in the same corridor as, and in proximity to, a fully access controlled highway designated to the National Highway System;

"(B) if the construction or improvements will improve the level of service on the fully access controlled highway and improve regional travel; and

"(C) if the construction or improvements are more cost effective than an improvement to the fully access controlled highway that has benefits comparable to the benefits which will be achieved by the construction of, or improvements to, the highway not on the National Highway System.

"(4) Highway safety improvements for segments of the National Highway System.

"(5) Transportation planning in accordance with sections 134 and 135.

"(6) Highway research and planning in accordance with section 307.

"(7) Highway-related technology transfer activities.

"(8) Startup costs for traffic management and control if such costs are limited to the time period necessary to achieve operable status but not to exceed 2 years following the date of project approval, if such funds are not used to replace existing funds.

"(9) Fringe and corridor parking facilities.

"(10) Carpool and vanpool projects.

"(11) Bicycle transportation and pedestrian walkways in accordance with section 217.

"(12) Development and establishment of management systems under section 303.

"(13) In accordance with all applicable Federal law and regulations, participation in wetlands mitigation efforts related to projects funded under this title, which may include participation in wetlands mitigation banks; contributions to statewide and regional efforts to conserve, restore, enhance and create wetlands; and development of statewide and regional wetlands conservation and mitigation plans, including any such banks, efforts, and plans authorized pursuant to the Water Resources Development Act of 1990 (including crediting provisions). Contributions to such mitigation efforts may take place concurrent with or in advance of project construction. Contributions toward these efforts may occur in advance of project construction only if such efforts are consistent with all applicable requirements of Federal law and regulations and State transportation planning processes.".

23 USC 104.

(e) APPORTIONMENTS.—Section 104(b)(1) of such title is amended to read as follows:

"(1) NATIONAL HIGHWAY SYSTEM.—For the National Highway System 1 percent to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands and the remaining 99 percent apportioned in the same ratio as funds are apportioned under paragraph (3).".

(f) TRANSFERABILITY.—Section 104 of such title is amended by striking subsection (c) and inserting the following new subsection:

"(c) TRANSFERABILITY OF NHS APPORTIONMENTS.—A State may transfer not to exceed 50 percent of the State's apportionment under subsection (b)(1) to the apportionment of the State under subsection (b)(3). A State may transfer not to exceed 100 percent of the State's

apportionment under subsection (b)(1) to the apportionment of the State under subsection (b)(3) if the State requests to make such transfer and the Secretary approves such transfer as being in the public interest, after providing notice and sufficient opportunity for public comment. Section 133(d) shall not apply to funds transferred under this subsection.".

(g) CONFORMING AMENDMENTS TO OTHER SECTIONS.—

(1) DEFINITIONS.—Section 101(a) of title 23, United States Code, is amended by striking the paragraph relating to Federal-aid highways and inserting the following new paragraph:

"The term 'Federal-aid highways' means highways eligible for assistance under this chapter other than highways classified as local roads or rural minor collectors.".

(2) PREVAILING RATE OF WAGE.—Section 113(a) of such title is amended by striking "systems, the primary and secondary, as well as their extension in urban areas, and the Interstate System," and inserting "highways".

(h) NATIONAL DEFENSE HIGHWAYS LOCATED OUTSIDE UNITED STATES.— 23 USC 311 note.

(1) RECONSTRUCTION PROJECTS.—If the Secretary determines, after consultation with the Secretary of Defense, that a highway, or portion of a highway, located outside the United States is important to the national defense, the Secretary may carry out a project for the reconstruction of such highway or portion of highway.

(2) FUNDING.—The Secretary may make available, from funds appropriated to construct the National System of Interstate and Defense Highways, not to exceed $20,000,000 per fiscal year for each of fiscal years 1993, 1994, 1995, and 1996 to carry out this subsection. Such sums shall remain available until expended.

SEC. 1007. SURFACE TRANSPORTATION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by inserting after section 132 the following new section:

"§ 133. Surface transportation program

"(a) ESTABLISHMENT.—The Secretary shall establish a surface transportation program in accordance with this section.

"(b) ELIGIBLE PROJECTS.—A State may obligate funds apportioned to it under section 104(b)(3) for the surface transportation program only for the following:

"(1) Construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highways (including Interstate highways) and bridges (including bridges on public roads of all functional classifications), including any such construction or reconstruction necessary to accommodate other transportation modes, and including the seismic retrofit and painting of and application of calcium magnesium acetate on bridges and approaches thereto and other elevated structures, mitigation of damage to wildlife, habitat, and ecosystems caused by a transportation project funded under this title.

"(2) Capital costs for transit projects eligible for assistance under the Federal Transit Act and publicly owned intracity or intercity bus terminals and facilities.

"(3) Carpool projects, fringe and corridor parking facilities and programs, and bicycle transportation and pedestrian walkways in accordance with section 217.

"(4) Highway and transit safety improvements and programs, hazard eliminations, projects to mitigate hazards caused by wildlife, and railway-highway grade crossings.

"(5) Highway and transit research and development and technology transfer programs.

"(6) Capital and operating costs for traffic monitoring, management, and control facilities and programs.

"(7) Surface transportation planning programs.

"(8) Transportation enhancement activities.

"(9) Transportation control measures listed in section 108(f)(1)(A) (other than clauses (xii) and (xvi)) of the Clean Air Act.

"(10) Development and establishment of management systems under section 303.

"(11) In accordance with all applicable Federal law and regulations, participation in wetlands mitigation efforts related to projects funded under this title, which may include participation in wetlands mitigation banks; contributions to statewide and regional efforts to conserve, restore, enhance and create wetlands; and development of statewide and regional wetlands conservation and mitigation plans, including any such banks, efforts, and plans authorized pursuant to the Water Resources Development Act of 1990 (including crediting provisions). Contributions to such mitigation efforts may take place concurrent with or in advance of project construction. Contributions toward these efforts may occur in advance of project construction only if such efforts are consistent with all applicable requirements of Federal law and regulations and State transportation planning processes.

"(c) LOCATION OF PROJECTS.—Except as provided in subsection (b)(1), surface transportation program projects (other than those described in subsections (b) (3) and (4)) may not be undertaken on roads functionally classified as local or rural minor collectors, unless such roads are on a Federal-aid highway system on January 1, 1991, and except as approved by the Secretary.

"(d) ALLOCATIONS OF APPORTIONED FUNDS.—

"(1) FOR SAFETY PROGRAMS.—10 percent of the funds apportioned to a State under section 104(b)(3) for the surface transportation program for a fiscal year shall only be available for carrying out sections 130 and 152 of this title. Of the funds set aside under the preceding sentence, the State shall reserve in such fiscal year an amount of such funds for carrying out each such section which is not less than the amount of funds apportioned to the State in fiscal year 1991 under such section.

"(2) FOR TRANSPORTATION ENHANCEMENT ACTIVITIES.—10 percent of the funds apportioned to a State under section 104(b)(3) for a fiscal year shall only be available for transportation enhancement activities.

"(3) DIVISION BETWEEN URBANIZED AREAS OF OVER 200,000 POPULATION AND OTHER AREAS.—

"(A) GENERAL RULE.—Except as provided in subparagraphs (C) and (D), 62.5 percent of the remaining 80 percent of the funds apportioned to a State under section 104(b)(3) for a fiscal year shall be obligated under this section—

"(i) in urbanized areas of the State with an urbanized area population of over 200,000, and

"(ii) in other areas of the State,

in proportion to their relative share of the State's population. The remaining 37.5 percent may be obligated in any area of the State. Funds attributed to an urbanized area under clause (i) may be obligated in the metropolitan area established under section 134 which encompasses the urbanized area.

"(B) SPECIAL RULE FOR AREAS OF LESS THAN 5,000 POPULATION.—Of the amounts required tobe obligated under subparagraph (A)(ii), the State shall obligate in areas of the State (other than urban areas with a population greater than 5,000) an amount which is not less than 110 percent of the amount of funds apportioned to the State for the Federal-aid secondary system for fiscal year 1991.

"(C) SPECIAL RULE FOR CERTAIN STATES.—In the case of a State in which—

"(i) greater than 80 percent of the population of the State is located in 1 or more metropolitan statistical areas, and

"(ii) greater than 80 percent of the land area of such State is owned by the United States,

the 62.5 percentage specified in the first sentence of subparagraph (A) shall be 35 percent and the percentage specified in the second sentence of subparagraph (A) shall be 65 percent.

"(D) NONCONTIGUOUS STATES EXEMPTION.—Subparagraph (A) shall not apply to any State which is noncontiguous with the continental United States.

"(E) DISTRIBUTION BETWEEN URBANIZED AREAS OF OVER 200,000 POPULATION.—The amount of funds which a State is required to obligate under subparagraph (A)(i) shall be obligated in urbanized areas described in subparagraph (A)(i) based on the relative population of such areas; except that the State may obligate such funds based on other factors if the State and the relevant metropolitan planning organizations jointly apply to the Secretary for the permission to do so and the Secretary grants the request.

"(4) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with the requirements of sections 134 and 135 of this title.

"(e) ADMINISTRATION.—

"(1) NONCOMPLIANCE.—If the Secretary determines that a State or local government has failed to comply substantially with any provision of this section, the Secretary shall notify the State that, if the State fails to take corrective action within 60 days from the date of receipt of the notification, the Secretary will withhold future apportionments under section 104(b)(3) until the Secretary is satisfied that appropriate corrective action has been taken.

"(2) CERTIFICATION.—The Governor of each State shall certify before the beginning of each quarter of a fiscal year that the State will meet all the requirements of this section and shall notify the Secretary of the amount of obligations expected to be incurred for surface transportation program projects during

such quarter. A State may request adjustment to the obligation amounts later in each of such quarters. Acceptance of the notification and certification shall be deemed a contractual obligation of the United States for the payment of the surface transportation program funds expected to be obligated by the State in such quarter for projects not subject to review by the Secretary under this chapter.

"(3) PAYMENTS.—The Secretary shall make payments to a State of costs incurred by the State for the surface transportation program in accordance with procedures to be established by the Secretary. Payments shall not exceed the Federal share of costs incurred as of the date the State requests payments.

"(4) POPULATION DETERMINATIONS.—The Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures for purposes of this section.

Urban areas.

"(f) ALLOCATION OF OBLIGATION AUTHORITY.—A State which is required to obligate in an urbanized area with an urbanized area population of over 200,000 under subsection (d) funds apportioned to it under section 104(b)(3) shall allocate during the 6-fiscal year period 1992 through 1997 an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction for use in such area determined by multiplying—

"(1) the aggregate amount of funds which the State is required to obligate in such area under subsection (d) during such period; by

"(2) the ratio of the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction during such period to the total sums apportioned to the State for Federal-aid highways and highway safety construction (excluding sums not subject to an obligation limitation) during such period.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by inserting after the item relating to section 132 the following:

"133. Surface transportation program.".

(b) APPORTIONMENT OF SURFACE TRANSPORTATION PROGRAM FUNDS.—

(1) IN GENERAL.—Section 104(b)(3) of title 23, United States Code, is amended to read as follows:

"(3) SURFACE TRANSPORTATION PROGRAM.—

"(A) GENERAL RULE.—For the surface transportation program in a manner so that a State's current percentage share of apportionments is equal to the State's 1987–1991 percentage share of apportionments. For purposes of this paragraph—

"(i) a State's current percentage share of apportionments is the State's percentage share of all funds apportioned for a fiscal year under paragraph (1) for the National Highway System, under section 144 for the bridge program, under paragraph (5)(B) for Interstate maintenance, and under this paragraph; and

"(ii) a State's 1987–1991 percentage share of apportionments is the State's percentage share of all apportionments and allocations under this title for fiscal years 1987, 1988, 1989, 1990, and 1991 (except appor-

tionments and allocations for Interstate construction under sections 104(b)(5)(A) and 118, Interstate highway substitute under section 103(e)(4), Federal lands highways under section 202, and emergency relief under section 125, all allocations under section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987, and the portion of allocations under section 157 (relating to minimum allocation) that would be attributable to apportionments made under Interstate construction and Interstate highway substitute programs under sections 104(b)(5)(A) and 103(e)(4), respectively, for such fiscal years if the minimum allocation percentage for such fiscal years had been 90 percent instead of 85 percent).

"(B) CALCULATION RULES.—In calculating a State's percentage share under this paragraph for the purpose of making apportionments for fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, each State shall be treated as having received ½ of 1 percent of all funds apportioned for the Interstate construction program under section 104(b)(5)(A) in fiscal years 1987, 1988, 1989, 1990, and 1991. Notwithstanding any other provision of this paragraph, in any fiscal year no State shall receive a percentage of total apportionments and allocations that is less than 70 percent of its percentage of total apportionments and allocations for fiscal years 1987, 1988, 1989, 1990, and 1991, except for those States that receive an apportionment for Interstate construction under paragraph (5)(A) of more than $50,000,000 for fiscal year 1992.".

(2) CONFORMING AMENDMENTS.—Section 104 of such title is further amended— 23 USC 104.

(A) in subsections (a) and (b) by striking "upon the Federal-aid systems" and inserting "on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, and the Interstate System";

(B) in subsection (b) by striking "paragraphs (4) and (5)" and inserting "paragraph (5)(A)"; and

(C) in subsection (b) by striking "and sections 118(c) and 307(d)" and inserting "and section 307".

(c) TRANSPORTATION ENHANCEMENT ACTIVITIES DEFINED.—Section 101(a) of title 23, United States Code, is amended by adding at the end the following new paragraph:

"The term 'transportation enhancement activities' means, with respect to any project or the area to be served by the project, provision of facilities for pedestrians and bicycles, acquisition of scenic easements and scenic or historic sites, scenic or historic highway programs, landscaping and other scenic beautification, historic preservation, rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals), preservation of abandoned railway corridors (including the conversion and use thereof for pedestrian or bicycle trails), control and removal of outdoor advertising, archaeological planning and research, and mitigation of water pollution due to highway runoff.".

SEC. 1008. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Section 149 of title 23, United States Code, is amended to read as follows:

"§ 149. Congestion mitigation and air quality improvement program

"(a) ESTABLISHMENT.—The Secretary shall establish a congestion mitigation and air quality improvement program in accordance with this section.

"(b) ELIGIBLE PROJECTS.—Except as provided in subsection (c), a State may obligate funds apportioned to it under section 104(b)(2) for the congestion mitigation and air quality improvement program only for a transportation project or program—

"(1)(A) if the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines, on the basis of information published by the Environmental Protection Agency pursuant to section 108(f)(1)(A) of the Clean Air Act (other than clauses (xii) and (xvi) of such section), that the project or program is likely to contribute to the attainment of a national ambient air quality standard; or

"(B) in any case in which such information is not available, if the Secretary, after such consultation, determines that the project or program is part of a program, method, or strategy described in such section;

"(2) if the project or program is included in a State implementation plan that has been approved pursuant to the Clean Air Act and the project will have air quality benefits; or

"(3) the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the project or program is likely to contribute to the attainment of a national ambient air quality standard, whether through reductions in vehicle miles traveled, fuel consumption, or through other factors.

No funds may be provided under this section for a project which will result in the construction of new capacity available to single occupant vehicles unless the project consists of a high occupancy vehicle facility available to single occupant vehicles only at other than peak travel times.

"(c) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have a nonattainment area for ozone or carbon monoxide under the Clean Air Act located within its borders, the State may use funds apportioned to it under section 104(b)(2) for any project eligible for assistance under the surface transportation program.

"(d) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with the requirements of sections 134 and 135 of this title.".

(b) APPORTIONMENT.—Section 104(b)(2) of such title is amended to read as follows:

"(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program, in the ratio which the weighted nonattainment area population of each State bears to the total weighted nonattainment area population of all States. The weighted nonattainment area population shall be calculated by

multiplying the population of each area within any State that is a nonattainment area (as defined in the Clean Air Act) for ozone by a factor of—

"(A) 1.0 if the area is classified as a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act;

"(B) 1.1 if the area is classified as a moderate ozone nonattainment area under such subpart;

"(C) 1.2 if the area is classified as a serious ozone nonattainment area under such subpart;

"(D) 1.3 if the area is classified as a severe ozone nonattainment area under such subpart; or

"(E) 1.4 if the area is classified as an extreme ozone nonattainment area under such subpart.

If the area is also classified under subpart 3 of part D of title I of such Act as a nonattainment area for carbon monoxide, for purposes of calculating the weighted nonattainment area population, the weighted nonattainment area population of the area, as determined under the preceding provisions of this paragraph, shall be further multiplied by a factor of 1.2. Notwithstanding any provision of this paragraph, in the case of States with a total 1990 census population of 15,000,000 or greater, the amount apportioned under this paragraph in a fiscal year to all of such States in the aggregate, shall be distributed among such States based on their relative populations; except that none of such States shall be distributed more than 42 percent of the aggregate amount so apportioned to all of such States. Notwithstanding any other provision of this paragraph, each State shall receive a minimum apportionment of ½ of 1 percent of the funds apportioned under this paragraph. The Secretary shall use estimates prepared by the Secretary of Commerce when determining population figures.".

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by striking

"149. Truck lanes."

and inserting

"149. Congestion mitigation and air quality improvement program.".

SEC. 1009. INTERSTATE MAINTENANCE PROGRAM.

(a) LIMITATION ON NEW CAPACITY.—Section 119 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(g) LIMITATION ON NEW CAPACITY.—Notwithstanding any other provision of this title, the portion of the cost of any project undertaken pursuant to this section that is attributable to the expansion of the capacity of any Interstate highway or bridge, where such new capacity consists of one or more new travel lanes that are not high-occupancy vehicle lanes or auxiliary lanes, shall not be eligible for funding under this section.".

(b) ADEQUATE MAINTENANCE OF THE INTERSTATE SYSTEM.—Section 119(f) of such title is amended by inserting after "Interstate System routes and" the following: "the State is adequately maintaining the Interstate System and".

(c) GUIDANCE TO THE STATES.—The Secretary shall develop and make available to the States criteria for determining— 23 USC 119 note.

(1) what share of any project funded under section 119 of title 23, United States Code, is attributable to the expansion of the capacity of an Interstate highway or bridge; and

(2) what constitutes adequate maintenance of the Interstate System for the purposes of section 119(f)(1) of title 23, United States Code.

(d) NONCHARGEABLE SEGMENTS.—Section 104(b)(5)(B) of title 23, United States Code, is amended by inserting "and routes on the Interstate System designated under section 139(a) of this title before March 9, 1984," after "under sections 103 and 139(c) of this title" each place it appears.

(e) CONFORMING AMENDMENTS.—

(1) NEW HEADING.—The heading for section 119 of such title is amended to read as follows:

"§ 119. Interstate maintenance program".

(2) ANALYSIS.—The analysis for chapter 1 of such title is amended by striking

"119. Interstate System resurfacing."

and inserting

"119. Interstate maintenance program.".

(3) ELIGIBLE ACTIVITIES.—Section 119(c) of such title is amended to read as follows:

"(c) ELIGIBLE ACTIVITIES.—Activities authorized in subsection (a) may include the reconstruction of bridges, interchanges, and over crossings along existing Interstate routes, including the acquisition of right-of-way where necessary, but shall not include the construction of new travel lanes other than high occupancy vehicle lanes or auxiliary lanes.".

(4) PREVENTIVE MAINTENANCE.—Section 119(e) of such title is amended to read as follows:

"(e) PREVENTIVE MAINTENANCE.—Preventive maintenance activities shall be eligible under this section when a State can demonstrate, through its pavement management system, that such activities are a cost-effective means of extending Interstate pavement life.".

(5) MISCELLANEOUS.—Section 119 of such title is amended—

(A) in subsection (a) by striking ", rehabilitating, and reconstructing" and inserting "and rehabilitating";

(B) in subsection (a) by striking the last sentence;

(C) in the heading for subsection (f) by striking "PRIMARY SYSTEM" and inserting "SURFACE TRANSPORTATION PROGRAM";

(D) in subsection (f)(1) by striking "rehabilitating, or reconstructing" and inserting "or rehabilitating"; and

(E) in subsection (f) by striking "section 104(b)(1)" each place it appears and inserting "sections 104(b)(1) and 104(b)(3)".

SEC. 1010. OPERATION LIFESAVER; HIGH SPEED RAIL CORRIDORS.

Section 104(d) of title 23, United States Code, is amended to read as follows:

"(d) OPERATION LIFESAVER AND HIGH SPEED RAIL CORRIDORS.—

"(1) OPERATION LIFESAVER.—The Secretary shall expend, from administrative funds deducted under subsection (a), $300,000 for each fiscal year for carrying 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.

"(2) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—(A) 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 such fiscal year for elimination of hazards of railway-highway crossings in not to exceed 5 railway corridors selected by the Secretary in accordance with the criteria set forth in this paragraph.

"(B) A corridor selected by the Secretary under subparagraph (A) must include rail lines where railroad speeds of 90 miles per hour are occurring or can reasonably be expected to occur in the future.

"(3) In making the determination required by paragraph (2)(A), the Secretary shall consider projected rail ridership volumes in such corridors, the percentage of the 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, projected benefits to nonriders such as congestion relief on other modes of transportation serving the corridors (including congestion in heavily traveled air passenger corridors), the amount of State and local financial support that can reasonably be anticipated for the improvement of the line and related facilities, and 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 such corridors.".

SEC. 1011. SUBSTITUTE PROGRAM.

(a) HIGHWAY PROJECTS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 103(e)(4)(G) of title 23, United States Code, is amended—

(A) by striking "and" the next to the last place it appears;

(B) by inserting before the period at the end the following: ", $240,000,000 per fiscal year for each of fiscal years 1992, 1993, 1994, and 1995"; and

(C) by adding at the end the following: "Such sums may be obligated for transit substitute projects under this paragraph.".

(2) DISTRIBUTION.—Section 103(e)(4)(H) of such title is amended—

(A) by adding at the end of clause (i) the following new sentence: "For each of fiscal years 1992, 1993, 1994, and 1995, all funds made available by subparagraph (G) shall be apportioned in accordance with cost estimates adjusted by the Secretary.";

(B) in clause (iii), by striking "1988, 1989, 1990, AND 1991 APPORTIONMENTS" and inserting "1988–1995 APPORTIONMENTS"; and

(C) by striking "and 1991." and inserting "1991, 1992, 1993, 1994, and 1995.".

(b) TRANSIT PROJECTS.—Section 103(e)(4)(J) of such title is amended—

(1) in clause (i) by inserting after "1983," the following: "and ending before October 1, 1991";

(2) by adding at the end of clause (i) the following new sentence: "100 percent of funds appropriated for each of fiscal years 1992 and 1993 shall be apportioned in accordance with cost estimates adjusted by the Secretary.";

(3) in clause (iii) by striking "1988, 1989, 1990, AND 1991 APPORTIONMENTS" and inserting "1988–1993 APPORTIONMENTS"; and

(4) by striking "and 1991." and inserting "1991, 1992, and 1993.".

23 USC 103.

(c) PERIOD OF AVAILABILITY.—Section 103(e)(4)(E)(i) of such title is amended by adding at the end the following new sentence: "In the case of funds authorized to be appropriated for substitute transit projects under this paragraph for fiscal year 1993 and for substitute highway projects under this paragraph for fiscal year 1995, such funds shall remain available until expended.".

SEC. 1012. TOLL ROADS, BRIDGES, AND TUNNELS.

(a) NEW PROGRAM.—Section 129(a) of title 23, United States Code, is amended to read as follows:

"(a) BASIC PROGRAM.—

"(1) AUTHORIZATION FOR FEDERAL PARTICIPATION.—Notwithstanding section 301 of this title and subject to the provisions of this section, the Secretary shall permit Federal participation in—

"(A) initial construction of a toll highway, bridge, or tunnel (other than a highway, bridge, or tunnel on the Interstate System) or approach thereto;

"(B) reconstructing, resurfacing, restoring, and rehabilitating a toll highway, bridge, or tunnel (including a toll highway, bridge, or tunnel subject to an agreement entered into under this section or section 119(e) as in effect on the day before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991) or approach thereto;

"(C) reconstruction or replacement of a toll-free bridge or tunnel and conversion of the bridge or tunnel to a toll facility;

"(D) reconstruction of a toll-free Federal-aid highway (other than a highway on the Interstate System) and conversion of the highway to a toll facility; and

"(E) preliminary studies to determine the feasibility of a toll facility for which Federal participation is authorized under subparagraph (A), (B), (C), or (D);

on the same basis and in the same manner as in the construction of free highways under this chapter.

"(2) OWNERSHIP.—Each highway, bridge, tunnel, or approach thereto constructed under this subsection must—

"(A) be publicly owned, or

"(B) be privately owned if the public authority having jurisdiction over the highway, bridge, tunnel, or approach has entered into a contract with a private person or persons to design, finance, construct, and operate the facility and the public authority will be responsible for complying with all applicable requirements of this title with respect to the facility.

Contracts.

"(3) LIMITATIONS ON USE OF REVENUES.—Before the Secretary may permit Federal participation under this subsection in

construction of a highway, bridge, or tunnel located in a State, the public authority (including the State transportation department) having jurisdiction over the highway, bridge, or tunnel must enter into an agreement with the Secretary which provides that all toll revenues received from operation of the toll facility will be used first for debt service, for reasonable return on investment of any private person financing the project, and for the costs necessary for the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation. If the State certifies annually that the tolled facility is being adequately maintained, the State may use any toll revenues in excess of amounts required under the preceding sentence for any purpose for which Federal funds may be obligated by a State under this title.

"(4) SPECIAL RULE FOR FUNDING.—In the case of a toll highway, bridge, or tunnel under the jurisdiction of a public authority of a State (other than the State transportation department), upon request of the State transportation department and subject to such terms and conditions as such department and public authority may agree, the Secretary shall reimburse such public authority for the Federal share of the costs of construction of the project carried out on the toll facility under this subsection in the same manner and to the same extent as such department would be reimbursed if such project was being carried out by such department. The reimbursement of funds under this paragraph shall be from sums apportioned to the State under this chapter and available for obligations on projects on the Federal-aid system in such State on which the project is being carried out.

"(5) LIMITATION ON FEDERAL SHARE.—Except as otherwise provided in this paragraph, the Federal share payable for construction of a highway, bridge, tunnel, or approach thereto or conversion of a highway, bridge, or tunnel to a toll facility under this subsection shall be such percentage as the State determines but not to exceed 50 percent. The Federal share payable for construction of a new bridge, tunnel, or approach thereto or for reconstruction or replacement of a bridge, tunnel, or approach thereto shall be such percentage as the Secretary determines but not to exceed 80 percent. In the case of a toll facility subject to an agreement under section 119 or 129, the Federal share payable on any project for resurfacing, restoring, rehabilitating, or reconstructing such facility shall be 80 percent until the scheduled expiration of such agreement (as in effect on the day before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991).

"(6) MODIFICATIONS.—If a public authority (including a State transportation department) having jurisdiction over a toll highway, bridge, or tunnel subject to an agreement under this section or section 119(e), as in effect on the day before the effective date of title I of the Intermodal Surface Transportation Efficiency Act of 1991, requests modification of such agreement, the Secretary shall modify such agreement to allow the continuation of tolls in accordance with paragraph (3) without repayment of Federal funds.

"(7) LOANS.—A State may loan all or part of the Federal share of a toll project under this section to a public or private agency constructing a toll facility. Such loan may be made only after all

Federal environmental requirements have been complied with and permits obtained. The amount loaned shall be subordinated to other debt financing for the facility except for loans made by the State or any other public agency to the agency constructing the facility. Funds loaned pursuant to this section may be obligated for projects eligible under this section. The repayment of any such loan shall commence not more than 5 years after the facility has opened to traffic. Any such loan shall bear interest at the average rate the State's pooled investment fund earned in the 52 weeks preceding the start of repayment. The term of any such loan shall not exceed 30 years from the time the loan was obligated. Amounts repaid to a State from any loan made under this section may be obligated for any purpose for which the loaned funds were available. The Secretary shall establish procedures and guidelines for making such loans.

"(8) INITIAL CONSTRUCTION DEFINED.—For purposes of this subsection, the term 'initial construction' means the construction of a highway, bridge, or tunnel at any time before it is open to traffic and does not include any improvement to a highway, bridge, or tunnel after it is open to traffic.".

23 USC 149 note.

(b) CONGESTION PRICING PILOT PROGRAM.—(1) The Secretary shall solicit the participation of State and local governments and public authorities for one or more congestion pricing pilot projects. The Secretary may enter into cooperative agreements with as many as 5 such State or local governments or public authorities to establish, maintain, and monitor congestion pricing projects.

(2) Notwithstanding section 129 of title 23, United States Code, the Federal share payable for such programs shall be 80 percent. The Secretary shall fund all of the development and other start up costs of such projects, including salaries and expenses, for a period of at least 1 year, and thereafter until such time that sufficient revenues are being generated by the program to fund its operating costs without Federal participation, except that the Secretary may not fund any project for more than 3 years.

(3) Revenues generated by any pilot project under this subsection must be applied to projects eligible under such title.

(4) Notwithstanding sections 129 and 301 of title 23, United States Code, the Secretary shall allow the use of tolls on the Interstate System as part of a pilot program under this section, but not on more than 3 of such programs.

Reports.

(5) The Secretary shall monitor the effect of such projects for a period of at least 10 years, and shall report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives every 2 years on the effects such programs are having on driver behavior, traffic, volume, transit ridership, air quality, and availability of funds for transportation programs.

(6) Of the sums made available to the Secretary pursuant to section 104(a) of title 23, United States Code, not to exceed $25,000,000 shall be made available each fiscal year to carry out the requirements of this subsection. Not more than $15,000,000 of such amounts shall be made available to carry out each pilot project under this section.

23 USC 129.

(c) ELIMINATION OF PUBLIC OPERATION REQUIREMENT FOR TOLL FERRIES.—Section 129 of such title is amended—

(1) by striking subsections (b), (c), (d), (e), (h), (i), and (k);

(2) by redesignating subsections (f), (g), and (j) as subsections (b), (c), and (d), respectively;

(3) in subsection (c) as so redesignated by inserting "and ferry terminal facilities" after "boats";

(4) in subsection (c) as so redesignated by striking paragraph (3) and inserting the following:

"(3) Such ferry boat or ferry terminal facility shall be publicly owned."; and

(5) in subsection (c)(4) as so redesignated—

(A) by inserting "or other public entity" after "State"; and

(B) by inserting before the period at the end the following: ", debt service, negotiated management fees, and, in the case of a privately operated toll ferry, for a reasonable rate of return".

(d) CONTINUATION OF EXISTING AGREEMENTS.—Unless modified under section 129(a)(6) of such title, as amended by subsection (a) of this section, agreements entered into under section 119(e) or 129 of such title before the effective date of this title and in effect on the day before such effective date shall continue in effect on and after such effective date in accordance with the provisions of such agreement and such section 119(e) or 129. 23 USC 129 note.

(e) SPECIAL RULE FOR CERTAIN EXISTING TOLL FACILITY AGREEMENTS.—Notwithstanding sections 119 and 129 of title 23, United States Code, at the request of the non-Federal parties to a toll facility agreement reached before October 1, 1991, regarding the New York State Thruway or the Fort McHenry Tunnel under section 105 of the Federal-Aid Highway Act of 1978 or section 129 of title 23, United States Code (as in effect on the day before the date of the enactment of this Act), the Secretary shall allow for the continuance of tolls without repayment of Federal funds. Revenues collected from such tolls, after the date of such request, in excess of revenues needed for debt service and the actual costs of operation and maintenance shall be available for (1) any transportation project eligible for assistance under title 23, United States Code, or (2) costs associated with transportation facilities under the jurisdiction of such non-Federal party, including debt service and costs related to the construction, reconstruction, restoration, repair, operation and maintenance of such facilities. New York.

(f) VOIDING OF CERTAIN AGREEMENTS FOR I-78 DELAWARE RIVER BRIDGE.—Upon the joint request of the State of Pennsylvania, the State of New Jersey, and the Delaware River Joint Toll Bridge Commission, and upon such parties entering into a new agreement with the Secretary regarding the bridge on Interstate Route 78 which crosses the Delaware River in the vicinity of Easton, Pennsylvania, and Phillipsburg, New Jersey, the Secretary shall void any agreement entered into with such parties with respect to the bridge before the effective date of this subsection under section 129(a), 129(d), or 129(e) of title 23, United States Code. The new agreement referred to in the preceding sentence shall permit the continuation of tolls without repayment of Federal funds and shall provide that all toll revenues received from operation of the bridge will be used— Pennsylvania. New Jersey.

(1) first for repayment of the non-Federal cost of construction of the bridge (including debt service);

(2) second for the costs necessary for the proper operation and maintenance of the bridge, including resurfacing, restoration, and rehabilitation; and

(3) to the extent that toll revenues exceed the amount necessary for paragraphs (1) and (2), such excess may be used with respect to any other bridge under the jurisdiction of the Delaware River Joint Toll Bridge Commission.

(g) BRIDGE CONNECTING PENNSYLVANIA TURNPIKE SYSTEM AND NEW JERSEY TURNPIKE.—Section 3 of the Act of October 26, 1951 (65 Stat. 653), is amended by striking ": *Provided*," and all that follows before the period.

SEC. 1013. MINIMUM ALLOCATION.

(a) GENERAL RULE.—Section 157(a) of title 23, United States Code, is amended—

(1) in paragraph (3) by striking "THEREAFTER" and inserting "FISCAL YEARS 1989–1991";

(2) in paragraph (3) by striking "and each fiscal year thereafter," and inserting ", 1990, and 1991"; and

(3) by adding at the end the following new paragraph:

"(4) THEREAFTER.—In fiscal year 1992 and each fiscal year thereafter on October 1, or as soon as possible thereafter, the Secretary shall allocate among the States amounts sufficient to ensure that a State's percentage of the total apportionments in each such fiscal year and allocations for the prior fiscal year for Interstate construction, Interstate maintenance, Interstate highway substitute, National Highway System, surface transportation program, bridge program, scenic byways, and grants for safety belts and motorcycle helmets shall not be less than 90 percent of the 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.".

(b) CONFORMING AMENDMENTS.—Section 157(b) of such title is amended—

(1) by striking "primary, secondary," and inserting "National Highway, surface transportation program,";

(2) by striking "urban," and inserting "congestion mitigation and air quality improvement program,";

(3) by striking "replacement and rehabilitation"; and

(4) by inserting after the first sentence the following: "½ of the amounts allocated pursuant to subsection (a) after September 30, 1991, shall be subject to section 133(d)(3) of this title.".

23 USC 157 note.

(c) DONOR STATE BONUS AMOUNTS.—

(1) FUNDING.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the payment of donor State bonus amounts the following amounts for the following fiscal years:

(A) For fiscal year 1992 $429,000,000.
(B) For fiscal year 1993 $514,000,000.
(C) For fiscal year 1994 $514,000,000.
(D) For fiscal year 1995 $514,000,000.
(E) For fiscal year 1996 $514,000,000.
(F) For fiscal year 1997 $515,000,000.

(2) APPORTIONMENT.—

(A) FORMULA.—The bonus apportionments which are provided under this subsection for a fiscal year shall be apportioned in such a way as to bring each successive State, or States, with the lowest dollar return on dollar projected to be contributed into the Highway Trust Fund for such fiscal

year, up to the highest common return on contributed dollar that can be funded with the annual authorizations provided under this subsection.

(B) APPLICABILITY OF CHAPTER 1 OF TITLE 23.—Funds apportioned under this subsection shall be available for obligation in the same manner and for the same purposes as if such funds were apportioned for the surface transportation program under chapter 1 of title 23, United States Code, except that such funds shall remain available until expended. One-half of the amounts apportioned under this subsection shall be subject to section 133(d)(3) of title 23, United States Code, as added by this Act.

SEC. 1014. REIMBURSEMENT FOR SEGMENTS OF THE INTERSTATE SYSTEM CONSTRUCTED WITHOUT FEDERAL ASSISTANCE.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following new section:

"§ 160. Reimbursement for segments of the Interstate System constructed without Federal assistance

"(a) GENERAL AUTHORITY.—The Secretary shall allocate to the States in each of fiscal years 1996 and 1997 amounts determined under subsection (b) for reimbursement of their original contributions to construction of segments of the Interstate System which were constructed without Federal financial assistance.

"(b) DETERMINATION OF REIMBURSEMENT AMOUNT.—The amount to be reimbursed to a State in each of fiscal years 1996 and 1997 under this section shall be determined by multiplying the amount made available for carrying out this section for such fiscal year by the reimbursement percentage set forth in the table contained in subsection (c).

"(c) REIMBURSEMENT TABLE.—For purposes of carrying out this section, the reimbursement percentage, the original cost for constructing the Interstate System, and the total reimbursable amount for each State is set forth in the following table:

States	Original cost in millions	Reimbursement percentage	Reimbursable amount in millions
Alabama	$9	0.50	$147
Alaska		0.50	147
Arizona	20	0.50	147
Arkansas	6	0.50	147
California	298	5.42	1,591
Colorado	23	0.50	147
Connecticut	314	5.71	1,676
Delaware	39	0.71	209
Florida	31	0.56	164
Georgia	46	0.84	246
Hawaii		0.50	147
Idaho	5	0.50	147
Illinois	475	8.62	2,533
Indiana	167	3.03	892
Iowa	5	0.50	147
Kansas	101	1.84	540
Kentucky	32	0.57	169
Louisiana	22	0.50	147
Maine	38	0.69	204
Maryland	154	2.79	820

States	Original cost in millions	Reimbursement percentage	Reimbursable amount in millions
Massachusetts	283	5.14	1,511
Michigan	228	4.14	1,218
Minnesota	16	0.50	147
Mississippi	6	0.50	147
Missouri	74	1.35	396
Montana	5	0.50	147
Nebraska	1	0.50	147
Nevada	2	0.50	147
New Hampshire	8	0.50	147
New Jersey	353	6.41	1,882
New Mexico	8	0.50	147
New York	929	16.88	4,960
North Carolina	36	0.65	191
North Dakota	3	0.50	147
Ohio	257	4.68	1,374
Oklahoma	91	1.66	486
Oregon	78	1.42	417
Pennsylvania	354	6.43	1,888
Rhode Island	12	0.50	147
South Carolina	4	0.50	147
South Dakota	5	0.50	147
Tennessee	7	0.50	147
Texas	200	3.64	1,069
Utah	6	0.50	147
Vermont	1	0.50	147
Virginia	111	2.01	591
Washington	73	1.32	389
West Virginia	5	0.50	147
Wisconsin	8	0.50	147
Wyoming	9	0.50	147
D.C.	9	0.50	147
TOTALS	$4,967	100.00	$29,384

"(d) TRANSFER OF REIMBURSABLE AMOUNTS TO STP APPORTIONMENT.—Subject to subsection (e) of this section, the Secretary shall transfer amounts allocated to a State pursuant to this section to the apportionment of such State under section 104(b)(3) for the surface transportation program.

"(e) LIMITATION ON APPLICABILITY OF CERTAIN REQUIREMENTS OF STP PROGRAM.—The following provisions of section 133 of this title shall not apply to ½ of the amounts transferred under subsection (d) to the apportionment of the State for the surface transportation program:

"(1) Subsection (d)(1).

"(2) Subsection (d)(2).

"(3) Subsection (d)(3).

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), $2,000,000,000 per fiscal year for each of fiscal years 1996 and 1997 to carryout this section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by adding at the end the following new item:

"160. Reimbursement for segments of the Interstate System constructed without Federal assistance.".

(c) KANSAS PROJECTS.—

(1) UNITED STATES ROUTE 50.—The State of Kansas shall obligate in fiscal year 1996 $24,440,000 to construct the Hutchinson Bypass between United States Route 50 and Kansas Route 96 in the vicinity of Hutchinson, Kansas. Such funds shall be obligated from amounts allocated to the State of Kansas for fiscal year 1996 under section 160 of title 23, United States Code.

(2) UNITED STATES ROUTE 91.—The State of Kansas shall obligate in fiscal years 1996 and 1997 such sums as may be necessary to widen United States Route 91 from Belleville, Kansas, to the Nebraska border. Such funds shall be obligated from amounts allocated to the State of Kansas for fiscal years 1996 and 1997 under such section.

(3) NONAPPLICABILITY OF CERTAIN PROVISIONS.—Sections 160(d) and 133(d)(3) of title 23, United States Code, shall not apply to funds allocated to the State of Kansas for fiscal years 1996 and 1997.

SEC. 1015. APPORTIONMENT ADJUSTMENTS. 23 USC 104 note.

(a) HOLD HARMLESS.—

(1) GENERAL RULE.—The amount of funds which, but for this subsection, would be apportioned to a State for each of the fiscal years 1992 through 1997 under section 104(b)(3) of title 23, United States Code, for the surface transportation program shall be increased or decreased by an amount which, when added to or subtracted from the aggregate amount of funds apportioned to the State for such fiscal year and funds allocated to the State for the prior fiscal year under section 104(b) of such title, section 103(e)(4) for Interstate highway substitute, section 144 of such title, section 157 of such title, under section 202 of such title for the Federal lands highways program, section 160 of such title for the reimbursement program, and section 1013(c) of this Act for the donor State bonus program, will result in the percentage of amounts so apportioned and allocated to all States being equal to the percentage listed for such State in paragraph (2).

(2) STATE PERCENTAGES.—For purposes of paragraph (1) the percentage of amounts apportioned and allocated which are referred to in paragraph (1) for each State, and the District of Columbia shall be determined in accordance with the following table:

States	Adjustment Percentage
Alabama	1.74
Alaska	1.28
Arizona	1.49
Arkansas	1.20
California	9.45
Colorado	1.35
Connecticut	1.78
Delaware	0.41
District of Columbia	0.53
Florida	4.14
Georgia	2.97
Hawaii	0.57
Idaho	0.69
Illinois	3.72
Indiana	2.20
Iowa	1.25
Kansas	1.14
Kentucky	1.52
Louisiana	1.55

Maine	0.50
Maryland	1.69
Massachusetts	4.36
Michigan	2.81
Minnesota	1.58
Mississippi	1.15
Missouri	2.23
Montana	0.97
Nebraska	0.83
Nevada	0.64
New Hampshire	0.48
New Jersey	2.87
New Mexico	1.08
New York	5.37
North Carolina	2.65
North Dakota	0.62
Ohio	3.73
Oklahoma	1.42
Oregon	1.26
Pennsylvania	4.38
Rhode Island	0.54
South Carolina	1.41
South Dakota	0.71
Tennessee	2.08
Texas	6.36
Utah	0.77
Vermont	0.44
Virginia	2.27
Washington	2.06
West Virginia	0.94
Wisconsin	1.70
Wyoming	0.67

(b) 90 PERCENT OF PAYMENT ADJUSTMENTS.—

(1) GENERAL RULE.—For each of fiscal years 1992 through 1997, the Secretary shall allocate among the States amounts sufficient to ensure that a State's total apportionments for such fiscal year and allocations for the prior fiscal year under section 104(b) of such title, section 103(e)(4) for Interstate highway substitute, section 144 of such title, section 157 of such title, section 202 of such title for the Federal lands highways program, section 1013(c) of this Act for the donor State bonus program, section 160 of such title for the reimbursement program, and subsection (a) of this section for hold harmless is not less than 90 percent of the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than Mass Transit Account) in the latest fiscal year in which data is available.

(2) TRANSFER OF ALLOCATED AMOUNTS TO STP APPORTIONMENT.—Subject to subsection (d) of this section, the Secretary shall transfer amounts allocated to a State pursuant to paragraph (1) to the apportionment of such State under section 104(b)(3) for the surface transportation program.

Wisconsin.

(c) ADDITIONAL ALLOCATION.—Subject to subsection (d) of this section, the Secretary shall allocate to the State of Wisconsin $40,000,000 for fiscal year 1992 and $47,800,000 for each of fiscal years 1993 through 1997 and transfer such amounts to the apportionment of such State under section 104(b)(3) of title 23, United States Code, for the surface transportation program.

(d) LIMITATION ON APPLICABILITY OF CERTAIN REQUIREMENTS OF STP PROGRAM.—The following provisions of section 133 of title 23, United States Code, shall not apply to ½ of the amounts added under subsection (a) to the apportionment of the State for the

surface transportation program and of amounts transferred under subsections (b) and (c) to such apportionment:

(1) Subsection (d)(1).
(2) Subsection (d)(2).
(3) Subsection (d)(3).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), to carry out this section such sums as may be necessary for each of fiscal years 1992 through 1997.

SEC. 1016. PROGRAM EFFICIENCIES.

(a) HOV PASSENGER REQUIREMENTS; ENGINEERING COST REIMBURSEMENT.—Section 102 of title 23, United States Code, is amended to read as follows:

"§ 102. Program efficiencies

"(a) HOV PASSENGER REQUIREMENTS.—A State highway department shall establish the occupancy requirements of vehicles operating in high occupancy vehicle lanes; except that no fewer than 2 occupants per vehicle may be required and, subject to section 163 of the Surface Transportation Assistance Act of 1982, motorcycles and bicycles shall not be considered single occupant vehicles.

"(b) ENGINEERING COST REIMBURSEMENT.—If on-site construction of, or acquisition of right-of-way for, a highway project is not commenced within 10 years after the date on which Federal funds are first made available, out of the Highway Trust Fund (other than Mass Transit Account), for preliminary engineering of such project, the State shall pay an amount equal to the amount of Federal funds made available for such engineering. The Secretary shall deposit in such Fund all amounts paid to the Secretary under this section.".

(b) PROJECT APPROVAL.—Section 106 of such title is amended—

(1) in subsection (a) by inserting "this section and" before "section 117"; and

(2) by striking subsection (b) and inserting the following new subsection:

"(b) SPECIAL RULES.—

"(1) 3R PROJECTS ON NHS.—Notwithstanding any other provision of this title, a State highway department may approve, on a project by project basis, plans, specifications, and estimates for projects to resurface, restore, and rehabilitate highways on the National Highway System if the State certifies that all work will meet or exceed the standards approved by the Secretary under section 109(c).

"(2) NON-NHS PROJECTS AND LOW-COST NHS PROJECTS.—Any State may request that the Secretary no longer review and approve plans, specifications, and estimates for any project (including any highway project on the National Highway System with an estimated construction cost of less than $1,000,000 but excluding any other highway project on the National Highway System). After receiving any such notification, the Secretary shall undertake project review only as requested by the State.

"(3) SAFETY CONSIDERATIONS.—Safety considerations for projects subject to this subsection may be met by phase construction consistent with an operative safety management system established in accordance with section 303.".

23 USC 109.

(c) STANDARDS.—Section 109(c) of such title is amended to read as follows:

"(c) DESIGN AND CONSTRUCTION STANDARDS FOR NHS.—Design and construction standards to be adopted for new construction on the National Highway System, for reconstruction on the National Highway System, and for resurfacing, restoring, and rehabilitating multilane limited access highways on the National Highway System shall be those approved by the Secretary in cooperation with the State highway departments. All eligible work for such projects shall meet or exceed such standards.".

(d) COMPLIANCE WITH STATE LAWS FOR NON-NHS PROJECTS.—Section 109 of such title is amended by adding at the end the following new subsection:

"(p) COMPLIANCE WITH STATE LAWS FOR NON-NHS PROJECTS.—Projects (other than highway projects on the National Highway System) shall be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards.".

(e) HISTORIC AND SCENIC VALUES.—Section 109 of such title is amended by adding at the end the following new subsection:

"(q) HISTORIC AND SCENIC VALUES.—If a proposed project under sections 103(e)(4), 133, or 144 involves a historic facility or is located in an area of historic or scenic value, the Secretary may approve such project notwithstanding the requirements of subsections (a) and (b) of this section and section 133(c) if such project is designed to standards that allow for the preservation of such historic or scenic value and such project is designed with mitigation measures to allow preservation of such value and ensure safe use of the facility.".

(f) CONFORMING AMENDMENTS.—

(1) STANDARDS.—Section 109 of such title is amended—

(A) in subsection (a) by striking "projects on any Federal-aid system" and inserting "highway projects under this chapter"; and

(B) in subsection (l)(1) by striking "Federal-aid system" and inserting "Federal-aid highway".

(2) CERTIFICATION ACCEPTANCE.—Section 117 of such title is amended—

(A) in subsection (a) by striking "on Federal-aid systems, except" and inserting "under this chapter, except projects on";

(B) in subsection (a) by inserting "or other transportation" before "construction,";

(C) by striking subsection (b) and inserting the following:

"(b) The Secretary may accept projects based on inspections of a type and frequency necessary to ensure the projects are completed in accordance with appropriate standards."; and

(D) in subsection (e) by inserting ", section 106(b), section 133, and section 149" after "in this section".

(3) CHAPTER ANALYSIS.—The analysis of chapter 1 of such title, is amended by striking

"102. Authorizations."

and inserting

"102. Program efficiencies.".

(g) LIMITATION ON CERTAIN EXPENDITURES.—No Federal funds may be expended for any highway project on any portion of the

scenic highway known as "Ministerial Road" between route 138 and route 1 in the State of Rhode Island unless the Governor of such State and the town council of the town of South Kingstown, Rhode Island, first agree to the design.

SEC. 1017. ACQUISITION OF RIGHTS-OF-WAY.

(a) RIGHT-OF-WAY REVOLVING FUND.—Sections 108(a) and 108(c)(3) of title 23, United States Code, are each amended by striking "ten" and inserting "20".

(b) EARLY ACQUISITION OF RIGHTS-OF-WAY.—Section 108 of such title is further amended by adding at the end the following new subsection:

"(d) EARLY ACQUISITION OF RIGHTS-OF-WAY.—

"(1) GENERAL RULE.—Subject to paragraph (2), funds apportioned to a State under this title may be used to participate in the payment of—

"(A) costs incurred by the State for acquisition of rights-of-way, acquired in advance of any Federal approval or authorization, if the rights-of-way are subsequently incorporated into a project eligible for surface transportation program funds; and

"(B) costs incurred by the State for the acquisition of land necessary to preserve environmental and scenic values.

"(2) TERMS AND CONDITIONS.—The Federal share payable of the costs described in paragraph (1) shall be eligible for reimbursement out of funds apportioned to a State under this title when the rights-of-way acquired are incorporated into a project eligible for surface transportation program funds, if the State demonstrates to the Secretary and the Secretary finds that—

"(A) any land acquired, and relocation assistance provided, complied with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

"(B) the requirements of title VI of the Civil Rights Act of 1964 have been complied with;

"(C) the State has a mandatory comprehensive and coordinated land use, environment, and transportation planning process under State law and the acquisition is certified by the Governor as consistent with the State plans before the acquisition;

"(D) the acquisition is determined in advance by the Governor to be consistent with the State transportation planning process pursuant to section 135 of this title;

"(E) the alternative for which the right-of-way is acquired is selected by the State pursuant to regulations to be issued by the Secretary which provide for the consideration of the environmental impacts of various alternatives;

"(F) before the time that the cost incurred by a State is approved for Federal participation, environmental compliance pursuant to the National Environmental Policy Act has been completed for the project for which the right-of-way was acquired by the State, and the acquisition has been approved by the Secretary under this Act, and in compliance with section 4(f) of the Department of Transportation Act, section 7 of the Endangered Species Act, and all other applicable environmental laws shall be identified by the Secretary in regulations; and

Regulations.

"(G) before the time that the cost incurred by a State is approved for Federal participation, both the Secretary and the Administrator of the Environmental Protection Agency have concurred that the property acquired in advance of Federal approval or authorization did not influence the environmental assessment of the project, the decision relative to the need to construct the project, or the selection of the project design or location.".

23 USC 108 note.

(c) PRESERVATION OF TRANSPORTATION CORRIDORS REPORT.—The Secretary, in consultation with the States, shall report to Congress within 2 years after the date of the enactment of this Act, a national list of the rights-of-way identified by the metropolitan planning organizations and the States (under sections 134 and 135 of title 23, United States Code), including the total mileage involved, an estimate of the total costs, and a strategy for preventing further loss of rights-of-way including the desirability of creating a transportation right-of-way land bank to preserve vital corridors.

SEC. 1018. PRECONSTRUCTION ACTIVITIES.

(a) LIMITATION ON ESTIMATES FOR CONSTRUCTION ENGINEERING.—Section 106(c) of title 23, United States Code, is amended to read as follows:

"(c) LIMITATION ON ESTIMATES FOR CONSTRUCTION ENGINEERING.—Items included in all such estimates for construction engineering for a State for a fiscal year shall not exceed, in the aggregate, 15 percent of the total estimated costs of all projects financed within the boundaries of the State with Federal-aid highway funds in such fiscal year, after excluding from such total estimate costs, the estimated costs of rights-of-way, preliminary engineering, and construction engineering.".

(b) CONFORMING AMENDMENTS.—Section 121(d) of such title is amended—

(1) by striking "120" and inserting "106(c), 120,"; and

(2) by striking the last sentence.

SEC. 1019. CONVICT PRODUCED MATERIALS.

Section 114(b)(2) of title 23, United States Code, is amended by inserting "after July 1, 1991," after "Materials produced".

SEC. 1020. PERIOD OF AVAILABILITY.

(a) DATE AND PERIOD OF AVAILABILITY; DISCRETIONARY PROJECTS.—Section 118 of title 23, United States Code, is amended by striking subsections (a) and (b) and inserting the following new subsections:

"(a) DATE AVAILABLE FOR OBLIGATION.—Except as otherwise specifically provided, authorizations from the Highway Trust Fund (other than the Mass Transit Account) to carry out this title shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

"(b) PERIOD OF AVAILABILITY; DISCRETIONARY PROJECTS.—

"(1) INTERSTATE CONSTRUCTION FUNDS.—Funds apportioned or allocated for Interstate construction in a State shall remain available for obligation in that State until the last day of the fiscal year in which they are apportioned or allocated. Sums not obligated by the last day of the fiscal year in which they are apportioned or allocated shall be allocated to other States, except Massachusetts, at the discretion of the Secretary. All

sums apportioned or allocated on or after October 1, 1994, shall remain available in the State until expended. All sums apportioned or allocated to Massachusetts on or before October 1, 1989, shall remain available until expended.

"(2) OTHER FUNDS.—Except as otherwise specifically provided, funds apportioned or allocated pursuant to this title (other than for Interstate construction) in a State shall remain available for obligation in that State for a period of 3 years after the last day of the fiscal year for which the funds are authorized. Any amounts so apportioned or allocated that remain unobligated at the end of that period shall lapse.".

(b) SET ASIDE FOR DISCRETIONARY PROJECTS.—Section 118(c) of such title is amended— 23 USC 118.

(1) by striking "1983" and inserting "1992";

(2) by striking "$300,000,000" and inserting "$100,000,000"; and

(3) by striking paragraph (2) and inserting the following new paragraph:

"(2) SET ASIDE FOR 4R PROJECTS.—

"(A) IN GENERAL.—Before any apportionment is made under section 104(b)(1) of this title, the Secretary shall set aside $54,000,000 for fiscal year 1992, $64,000,000 for each fiscal years 1993, 1994, 1995, and 1996, and $65,000,000 for fiscal year 1997 for obligation by the Secretary for projects for resurfacing, restoring, rehabilitating, and reconstructing any route or portion thereof on the Interstate System (other than any highway designated as a part of the Interstate System under section 139 and any toll road on the Interstate System not subject to an agreement under section 119(e) of this title, as in effect on the day before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991). Of the amounts set aside under the preceding sentence, the Secretary shall obligate $16,000,000 for fiscal year 1992 and $17,000,000 for each of fiscal years 1993 and 1994 for improvements on the Kennedy Expressway in Chicago, Illinois. The remainder of such funds shall be made available by the Secretary to any State applying for such funds, if the Secretary determines that—

"(i) the State has obligated or demonstrates that it will obligate in the fiscal year all of its apportionments under section 104(b)(1) other than an amount which, by itself, is insufficient to pay the Federal share of the cost of a project for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System which has been submitted by the State to the Secretary for approval; and

"(ii) the applicant is willing and able to (I) obligate the funds within 1 year of the date the funds are made available, (II) apply them to a ready-to-commence project, and (III) in the case of construction work, begin work within 90 days of obligation.

"(B) PRIORITY CONSIDERATION FOR CERTAIN PROJECTS.—In selecting projects to fund under subparagraph (A), the Secretary shall give priority consideration to any project the cost of which exceeds $10,000,000 on any high volume route

in an urban area or a high truck-volume route in a rural area.

"(C) PERIOD OF AVAILABILITY OF DISCRETIONARY FUNDS.—Sums made available pursuant to this paragraph shall remain available until expended.".

23 USC 118.

(c) CONFORMING AMENDMENT.—Section 118(d) of such title is amended by striking "(b)(2)" and inserting "(b)(1)".

(d) ALASKA AND PUERTO RICO.—Section 118(f) of such title is amended by striking "on a Federal-aid system".

SEC. 1021. FEDERAL SHARE.

(a) IN GENERAL.—Section 120 of title 23, United States Code, is amended by striking subsections (a), (b), (c), and (d) and inserting the following new subsections:

"(a) INTERSTATE SYSTEM PROJECTS.—Except as otherwise provided in this chapter, the Federal share payable on account of any project on the Interstate System (including a project to add high occupancy vehicle lanes and a project to add auxiliary lanes but excluding a project to add any other lanes) shall be 90 percent of the total cost thereof, plus a percentage of the remaining 10 percent of such cost in any State containing unappropriated and unreserved public lands and nontaxable Indian lands, individual and tribal, exceeding 5 percent of the total area of all lands therein, equal to the percentage that the area of such lands in such State is of its total area; except that such Federal share payable on any project in any State shall not exceed 95 percent of the total cost of such project.

"(b) OTHER PROJECTS.—Except as otherwise provided in this title, the Federal share payable on account of any project or activity carried out under this title (other than a project subject to subsection (a)) shall be—

"(1) 80 percent of the cost thereof, except that in the case of any State containing nontaxable Indian lands, individual and tribal, and public domain lands (both reserved and unreserved) exclusive of national forests and national parks and monuments, exceeding 5 percent of the total area of all lands therein, the Federal share, for purposes of this chapter, shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State, is of its total area; or

"(2) 80 percent of the cost thereof, except that in the case of any State containing nontaxable Indian lands, individual and tribal, public domain lands (both reserved and unreserved), national forests, and national parks and monuments, the Federal share, for purposes of this chapter, shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in such State is of its total area;

Contracts.

except that the Federal share payable on any project in a State shall not exceed 95 percent of the total cost of any such project. In any case where a State elects to have the Federal share provided in paragraph (2) of this subsection, the State must enter into an agreement with the Secretary covering a period of not less than 1 year, requiring such State to use solely for purposes eligible for assistance under this title (other than paying its share of projects approved under this title) during the period covered by such agreement the difference between the State's share as provided in paragraph (2) and what its share would be if it elected to pay the share provided in paragraph (1) for all projects subject to such agreement.

"(c) INCREASED FEDERAL SHARE FOR CERTAIN SAFETY PROJECTS.—The Federal share payable on account of any project for traffic control signalization, pavement marking, commuter carpooling and vanpooling, or installation of traffic signs, traffic lights, guardrails, impact attenuators, concrete barrier endtreatments, breakaway utility poles, or priority control systems for emergency vehicles at signalized intersections may amount to 100 percent of the cost of construction of such projects; except that not more than 10 percent of all sums apportioned for all the Federal-aid systems for any fiscal year in accordance with section 104 of this title shall be used under this subsection.".

(b) CONFORMING AMENDMENTS.—Section 120 of such title is further amended— 23 USC 120.

(1) by striking subsections (j), (k), (l), and (m),

(2) by redesignating subsections (e), (f), (g), (h), (i), and (n) as subsections (d), (e), (f), (g), (h), and (i) respectively, and

(3) in subsection (d) as so redesignated by striking "and (c)" and inserting "and (b)".

(c) LIMITATION ON STATUTORY CONSTRUCTION.—The amendments made by this section shall not be construed to affect (1) the Federal share established by the Supplemental Appropriations Act, 1983 (97 Stat. 329) for construction of any highway on the Interstate System, and (2) the Federal share established by section 120(k) of such title, as in effect on the day before the date of the enactment of this Act, with respect to United States Highway 71 in Arkansas from the I-40 intersection to the Missouri-Arkansas State line. 23 USC 120 note.

(d) HIGHER FEDERAL SHARE.—If any highway project authorized to be carried out under sections 1103 through 1108 of this Act is a project which would be eligible for assistance under section 204 of title 23, United States Code, or is a project on a federally owned bridge, the Federal share payable on account of such project shall be 100 percent for purposes of this Act.

SEC. 1022. EMERGENCY RELIEF.

(a) EXTENSION OF TIME PERIOD.—Section 120(d) of title 23, United States Code, as redesignated by section 1021(b) of this Act, is amended by striking "90 days" and inserting "180 days".

(b) DOLLAR LIMITATION FOR TERRITORIES.—Section 125(b)(2) of such title is amended by striking "$5,000,000" and inserting "$20,000,000".

(c) APPLICABILITY.—The amendments made by subsections (a) and (b) shall only apply to natural disasters and catastrophic failures occurring after the date of the enactment of this Act.

SEC. 1023. GROSS VEHICLE WEIGHT RESTRICTION.

(a) CONFORMING AMENDMENTS.—Section 127(a) of title 23, United States Code, is amended—

(1) by striking "funds authorized to be appropriated for any fiscal year under provisions of the Federal-Aid Highway Act of 1956 shall be apportioned" and inserting "funds shall be apportioned in any fiscal year under section 104(b)(1) of this title"; and

(2) in the fourth sentence by inserting after "thereof" the following: ", other than vehicles or combinations subject to subsection (d) of this section,".

23 USC 127.

(b) OPERATION OF LONGER COMBINATION VEHICLES.—Section 127 of such title is amended by adding at the end the following new subsection:

"(d) LONGER COMBINATION VEHICLES.—

"(1) PROHIBITION.—

"(A) GENERAL CONTINUATION RULE.—A longer combination vehicle may continue to operate only if the longer combination vehicle configuration type was authorized by State officials pursuant to State statute or regulation conforming to this section and in actual lawful operation on a regular or periodic basis (including seasonal operations) on or before June 1, 1991, or pursuant to section 335 of the Department of Transportation and Related Agencies Appropriations Act, 1991 (104 Stat. 2186).

"(B) APPLICABILITY OF STATE LAWS AND REGULATIONS.—All such operations shall continue to be subject to, at the minimum, all State statutes, regulations, limitations and conditions, including, but not limited to, routing-specific and configuration-specific designations and all other restrictions, in force on June 1, 1991; except that subject to such regulations as may be issued by the Secretary pursuant to paragraph (5) of this subsection, the State may make minor adjustments of a temporary and emergency nature to route designations and vehicle operating restrictions in effect on June 1, 1991, for specific safety purposes and road construction.

"(C) WYOMING.—In addition to those vehicles allowed under subparagraph (A), the State of Wyoming may allow the operation of additional vehicle configurations not in actual operation on June 1, 1991, but authorized by State law not later than November 3, 1992, if such vehicle configurations comply with the single axle, tandem axle, and bridge formula limits set forth in subsection (a) and do not exceed 117,000 pounds gross vehicle weight.

"(D) OHIO.—In addition to vehicles which the State of Ohio may continue to allow to be operated under subparagraph (A), such State may allow longer combination vehicles with 3 cargo carrying units of 28½ feet each (not including the truck tractor) not in actual operation on June 1, 1991, to be operated within its boundaries on the 1-mile segment of Ohio State Route 7 which begins at and is south of exit 16 of the Ohio Turnpike.

"(E) ALASKA.—In addition to vehicles which the State of Alaska may continue to allow to be operated under subparagraph (A), such State may allow the operation of longer combination vehicles which were not in actual operation on June 1, 1991, but which were in actual operation prior to July 5, 1991.

"(2) ADDITIONAL STATE RESTRICTIONS.—

"(A) IN GENERAL.—Nothing in this subsection shall prevent any State from further restricting in any manner or prohibiting the operation of longer combination vehicles otherwise authorized under this subsection; except that such restrictions or prohibitions shall be consistent with the requirements of sections 411, 412, and 416 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311, 2312, and 2316).

"(B) MINOR ADJUSTMENTS.—Any State further restricting or prohibiting the operations of longer combination vehicles or making minor adjustments of a temporary and emergency nature as may be allowed pursuant to regulations issued by the Secretary pursuant to paragraph (5) of this subsection, shall, within 30 days, advise the Secretary of such action, and the Secretary shall publish a notice of such action in the Federal Register. Federal Register, publication.

"(3) PUBLICATION OF LIST.—

"(A) SUBMISSION TO SECRETARY.—Within 60 days of the date of the enactment of this subsection, each State (i) shall submit to the Secretary for publication in the Federal Register a complete list of (I) all operations of longer combination vehicles being conducted as of June 1, 1991, pursuant to State statutes and regulations; (II) all limitations and conditions, including, but not limited to, routing-specific and configuration-specific designations and all other restrictions, governing the operation of longer combination vehicles otherwise prohibited under this subsection; and (III) such statutes, regulations, limitations, and conditions; and (ii) shall submit to the Secretary copies of such statutes, regulations, limitations, and conditions.

"(B) INTERIM LIST.—Not later than 90 days after the date of the enactment of this subsection, the Secretary shall publish an interim list in the Federal Register, consisting of all information submitted pursuant to subparagraph (A). The Secretary shall review for accuracy all information submitted by the States pursuant to subparagraph (A) and shall solicit and consider public comment on the accuracy of all such information. Federal Register, publication.

"(C) LIMITATION.—No statute or regulation shall be included on the list submitted by a State or published by the Secretary merely on the grounds that it authorized, or could have authorized, by permit or otherwise, the operation of longer combination vehicles, not in actual operation on a regular or periodic basis on or before June 1, 1991.

"(D) FINAL LIST.—Except as modified pursuant to paragraph (1)(C) of this subsection, the list shall be published as final in the Federal Register not later than 180 days after the date of the enactment of this subsection. In publishing the final list, the Secretary shall make any revisions necessary to correct inaccuracies identified under subparagraph (B). After publication of the final list, longer combination vehicles may not operate on the Interstate System except as provided in the list. Federal Register, publication.

"(E) REVIEW AND CORRECTION PROCEDURE.—The Secretary, on his or her own motion or upon a request by any person (including a State), shall review the list issued by the Secretary pursuant to subparagraph (D). If the Secretary determines there is cause to believe that a mistake was made in the accuracy of the final list, the Secretary shall commence a proceeding to determine whether the list published pursuant to subparagraph (D) should be corrected. If the Secretary determines that there is a mistake in the accuracy of the list the Secretary shall correct the

publication under subparagraph (D) to reflect the determination of the Secretary.

"(4) LONGER COMBINATION VEHICLE DEFINED.—For purposes of this section, the term 'longer combination vehicle' means any combination of a truck tractor and 2 or more trailers or semitrailers which operates on the Interstate System at a gross vehicle weight greater than 80,000 pounds.

"(5) REGULATIONS REGARDING MINOR ADJUSTMENTS.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall issue regulations establishing criteria for the States to follow in making minor adjustments under paragraph (1)(B).".

23 USC 141.

(c) STATE CERTIFICATION.—Section 141(b) of such title is amended by adding at the end the following new sentence: "Each State shall also certify that it is enforcing and complying with the provisions of section 127(d) of this title and section 411(j) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311(j)).".

(d) INTERSTATE ROUTE 68.—Section 127 of such title is amended by adding at the end the following new subsection:

"(e) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON INTERSTATE ROUTE 68.—The single axle, tandem axle, and bridge formula limits set forth in subsection (a) shall not apply to the operation on Interstate Route 68 in Garrett and Allegany Counties, Maryland, of any specialized vehicle equipped with a steering axle and a tridem axle and used for hauling coal, logs, and pulpwood if such vehicle is of a type of vehicle as was operating in such counties on United States Route 40 or 48 for such purpose on August 1, 1991.".

23 USC 127 note.

(e) FIREFIGHTING VEHICLES.—

(1) TEMPORARY EXEMPTION.—The second sentence of section 127 of title 23, United States Code, relating to axle weight limitations and the bridge formula for vehicles using the National System of Interstate and Defense Highways, shall not apply, in the 2-year period beginning on the date of the enactment of this Act, to any existing vehicle which is used for the purpose of protecting persons and property from fires and other disasters that threaten public safety and which is in actual operation before such date of enactment and to any new vehicle to be used for such purpose while such vehicle is being delivered to a firefighting agency. The Secretary may extend such 2-year period for an additional year.

(2) STUDY.—The Secretary shall conduct a study—

(A) of State laws regulating the use on the National System of Interstate and Defense Highways of vehicles which are used for the purpose of protecting persons and property from fires and other disasters that threaten public safety and which are being delivered to or operated by a firefighting agency; and

(B) of the issuance of permits by States which exempt such vehicles from the requirements of the second sentence of section 127 of title 23, United States Code.

(3) PURPOSES.—The purposes of the study under this subsection are to determine whether or not such State laws and such section 127 need to be modified with regard to such vehicles and whether or not a permanent exemption should be made for such vehicles from the requirements of such laws and section 127 or

whether or not the bridge formula set forth in such section should be modified as it applies to such vehicles.

(4) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a report on the results of the study conducted under paragraph (2), together with recommendations.

(f) MONTANA-CANADA TRADE.—The Secretary shall not withhold funds from the State of Montana on the basis of actions taken by the State of Montana pursuant to a draft memorandum of understanding with the Province of Alberta, Canada, regarding truck transportation between Canada and Shelby, Montana; except that such actions do not include actions not permitted by the State of Montana on or before June 1, 1991.

(g) TRANSPORTERS OF WATER WELL DRILLING RIGS.— 23 USC 127 note.

(1) STUDY.—The Secretary shall conduct a study of State and Federal regulations pertaining to transporters of water well drilling rigs on public highways for the purpose of identifying requirements which place a burden on such transporters without enhancing safety or preservation of public highways.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1), together with any legislative and administrative recommendations of the Secretary.

SEC. 1024. 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.—It is in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner which will efficiently maximize mobility of people and goods within and through urbanized areas and minimize transportation-related fuel consumption and air pollution. To accomplish this objective, metropolitan planning organizations, in cooperation with the State, shall develop transportation plans and programs for urbanized areas of the State. Such plans and programs shall provide for the development of transportation facilities (including pedestrian walkways and bicycle transportation facilities) which will function as an intermodal transportation system for the State, the metropolitan areas, and the Nation. The process for developing such 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.

"(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 of more than 50,000 population by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) or in accordance with procedures established by applicable State or local law.

"(2) MEMBERSHIP OF CERTAIN MPO'S.—In a metropolitan area designated as a transportation management area, the metropolitan planning organization designated for such area shall include local elected officials, officials of agencies which administer or operate major modes of transportation in the metropolitan area (including all transportation agencies included in the metropolitan planning organization on June 1, 1991) and appropriate State officials. This paragraph shall only apply to a metropolitan planning organization which is redesignated after the date of the enactment of this section.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on the date of the enactment of this section, of a public agency with multimodal transportation responsibilities to—

"(A) develop plans and programs for adoption by a metropolitan planning organization; and

"(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

"(4) CONTINUING DESIGNATION.—Designations of metropolitan planning organizations, whether made under this section or other provisions of law, shall remain in effect until redesignated under paragraph (5) or revoked by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population or as otherwise provided under State or local procedures.

"(5) REDESIGNATION.—

"(A) PROCEDURES.—A metropolitan planning organization may be redesignated by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) as appropriate to carry out this section.

"(B) CERTAIN REQUESTS TO REDESIGNATE.—A metropolitan planning organization shall be redesignated upon request of a unit or units of general purpose local government representing at least 25 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) in any urbanized area (i) whose population is more than 5,000,000 but less than 10,000,000, or (ii) which is an extreme nonattainment area for ozone or carbon monoxide as defined under the Clean Air Act. Such redesignation shall be accomplished using procedures established by subparagraph (A).

"(6) TREATMENT OF LARGE URBAN AREAS.—More than 1 metropolitan planning organization may be designated within an urbanized area as defined by the Bureau of the Census only if the Governor determines that the size and complexity of the urbanized area make designation of more than 1 metropolitan planning organization for such area appropriate.

"(c) METROPOLITAN AREA BOUNDARIES.—For the purposes of this section, the boundaries of a metropolitan area shall be determined by agreement between the metropolitan planning organization and the Governor. Each metropolitan area shall cover at least the existing urbanized area and the contiguous area expected to become

urbanized within the 20-year forecast period and may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census. For areas designated as nonattainment areas for ozone or carbon monoxide under the Clean Air Act, the boundaries of the metropolitan area shall at least include the boundaries of the nonattainment area, except as otherwise provided by agreement between the metropolitan planning organization and the Governor.

"(d) COORDINATION IN MULTISTATE AREAS.—

"(1) IN GENERAL.—The Secretary shall establish such requirements as the Secretary considers appropriate to encourage Governors and metropolitan planning organizations with responsibility for a portion of a multi-State metropolitan area to provide coordinated transportation planning for the entire metropolitan area.

"(2) COMPACTS.—The consent of Congress is hereby given to any 2 or more States 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 such activities pertain to interstate areas and localities within such States and to establish such agencies, joint or otherwise, as such States may deem desirable for making such agreements and compacts effective.

"(e) COORDINATION OF MPO's.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and programs required by this section.

"(f) FACTORS TO BE CONSIDERED.—In developing transportation plans and programs pursuant to this section, each metropolitan planning organization shall, at a minimum, consider the following:

"(1) Preservation of existing transportation facilities and, where practical, ways to meet transportation needs by using existing transportation facilities more efficiently.

"(2) The consistency of transportation planning with applicable Federal, State, and local energy conservation programs, goals, and objectives.

"(3) The need to relieve congestion and prevent congestion from occurring where it does not yet occur.

"(4) The likely effect of transportation policy decisions on land use and development and the consistency of transportation plans and programs with the provisions of all applicable short- and long-term land use and development plans.

"(5) The programming of expenditure on transportation enhancement activities as required in section 133.

"(6) The effects of all transportation projects to be undertaken within the metropolitan area, without regard to whether such projects are publicly funded.

"(7) International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation areas, monuments and historic sites, and military installations.

"(8) The need for connectivity of roads within the metropolitan area with roads outside the metropolitan area.

"(9) The transportation needs identified through use of the management systems required by section 303 of this title.

"(10) Preservation of rights-of-way for construction of future transportation projects, including identification of unused rights-of-way which may be needed for future transportation corridors and identification of those corridors for which action is most needed to prevent destruction or loss.

"(11) Methods to enhance the efficient movement of freight.

"(12) The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement.

"(13) The overall social, economic, energy, and environmental effects of transportation decisions.

"(14) Methods to expand and enhance transit services and to increase the use of such services.

"(15) Capital investments that would result in increased security in transit systems.

"(g) DEVELOPMENT OF LONG RANGE PLAN.—

"(1) IN GENERAL.—Each metropolitan planning organization shall prepare, and update periodically, according to a schedule that the Secretary determines to be appropriate, a long range plan for its metropolitan area in accordance with the requirements of this subsection.

"(2) LONG RANGE PLAN.—A long range plan under this section shall be in a form that the Secretary determines to be appropriate and shall, at a minimum:

"(A) Identify transportation facilities (including but not necessarily limited to major roadways, transit, and multimodal and intermodal facilities) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the long range plan, the metropolitan planning organization shall consider factors described in subsection (f) as such factors relate to a 20-year forecast period.

"(B) Include a financial plan that demonstrates how the long-range plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any innovative financing techniques to finance needed projects and programs, including such techniques as value capture, tolls and congestion pricing.

"(C) Assess capital investment and other measures necessary to—

"(i) ensure the preservation of the existing metropolitan transportation system, including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization, and rehabilitation of existing and future transit facilities; and

"(ii) make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods.

"(D) Indicate as appropriate proposed transportation enhancement activities.

"(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas which are in nonattainment for ozone or carbon

monoxide under the Clean Air Act, the metropolitan planning organization shall coordinate the development of a long range plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

"(4) PARTICIPATION BY INTERESTED PARTIES.—Before approving a long range plan, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the long range plan, in a manner that the Secretary deems appropriate.

"(5) PUBLICATION OF LONG RANGE PLAN.—Each long range plan prepared by a metropolitan planning organization shall be—

"(i) published or otherwise made readily available for public review; and

"(ii) submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

(h) TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—The metropolitan planning organization designated for a metropolitan area, in cooperation with the State and affected transit operators, shall develop a transportation improvement program for the area for which such organization is designated. In developing the program, the metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program. The program shall be updated at least once every 2 years and shall be approved by the metropolitan planning organization and the Governor.

"(2) PRIORITY OF PROJECTS.—The transportation improvement program shall include the following:

"(A) A priority list of projects and project segments to be carried out within each 3-year period after the initial adoption of the transportation improvement program.

"(B) A financial plan that demonstrates how the transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any innovative financing techniques to finance needed projects and programs, including value capture, tolls, and congestion pricing.

"(3) SELECTION OF PROJECTS.—Except as otherwise provided in subsection (i)(4), project selection in metropolitan areas for projects involving Federal participation shall be carried out by the State in cooperation with the metropolitan planning organization and shall be in conformance with the transportation improvement program for the area.

"(4) MAJOR CAPITAL INVESTMENTS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall initiate a rulemaking proceeding to conform review requirements for transit projects under the National Environmental Policy Act of 1969 to comparable requirements under

such Act applicable to highway projects. Nothing in this section shall be construed to affect the applicability of such Act to transit or highway projects.

"(5) INCLUDED PROJECTS.—A transportation improvement program for a metropolitan area developed under this subsection shall include projects within the area which are proposed for funding under this title and the Federal Transit Act and which are consistent with the long range plan developed under subsection (g) for the area. 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.

"(6) NOTICE AND COMMENT.—Before approving a transportation improvement program, a metropolitan planning organization shall 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.

"(i) TRANSPORTATION MANAGEMENT AREAS.—

"(1) DESIGNATION.—The Secretary shall designate as transportation management areas all urbanized areas over 200,000 population. The Secretary shall designate any additional area as a transportation management area upon the request of the Governor and the metropolitan planning organization designated for such area or the affected local officials. Such additional areas shall include upon such a request the Lake Tahoe Basin as defined by Public Law 96-551.

"(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 transit operators.

"(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 the Federal Transit Act through the use of travel demand reduction and operational management strategies. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section.

"(4) SELECTION OF PROJECTS.—All projects carried out within the boundaries of a transportation management area with Federal participation pursuant to this title (excluding projects undertaken on the National Highway System and pursuant to the bridge and Interstate maintenance programs) or pursuant to the Federal Transit Act shall be selected by the metropolitan planning organization designated for such area in consultation with the State and in conformance with the transportation improvement program for such area and priorities established therein. Projects undertaken within the boundaries of a transportation management area on the National Highway System or pursuant to the bridge and Interstate maintenance programs shall be selected by the State in cooperation with the metropolitan planning organization designated for such area

and shall be in conformance with the transportation improvement program for such area.

"(5) CERTIFICATION.—The Secretary shall assure that each metropolitan planning organization in each transportation management area is carrying out its responsibilities under applicable provisions of Federal law, and shall so certify at least once every 3 years. The Secretary may make such certification only if (1) a metropolitan planning organization is complying with the requirements of this section and other applicable requirements of Federal law, and (2) there is a transportation improvement program for the area that has been approved by the metropolitan planning organization and the Governor. If after September 30, 1993, a metropolitan planning organization is not certified by the Secretary, the Secretary may withhold, in whole or in part, the apportionment under section 104(b)(3) attributed to the relevant metropolitan area pursuant to section 133(d)(3) and capital funds apportioned under the formula program under section 9 of the Federal Transit Act. If a metropolitan planning organization remains uncertified for more than 2 consecutive years after September 30, 1994, 20 percent of the apportionment attributed to that metropolitan area under section 133(d)(3) and capital funds apportioned under the formula program under section 9 of the Federal Transit Act shall be withheld. The withheld apportionments shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary. The Secretary shall not withhold certification under this section based upon 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 8(o) of the Federal Transit Act.

"(j) ABBREVIATED PLANS AND PROGRAMS FOR CERTAIN AREAS.—For metropolitan areas not designated as transportation management areas under this section, the Secretary may provide for the development of abbreviated metropolitan transportation plans and programs that the Secretary determines to be appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems, including transportation related air quality problems, in such areas. In no event shall the Secretary provide abbreviated plans or programs for metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act.

"(k) TRANSFER OF FUNDS.—Funds made available for a highway project under the Federal Transit Act shall be transferred to and administered by the Secretary in accordance with the requirements of this title. Funds made available for a transit project under the Federal-Aid Highway Act of 1991 shall be transferred to and administered by the Secretary in accordance with the requirements of the Federal Transit Act.

"(l) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—Notwithstanding any other provisions of this title or the Federal Transit Act, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be programmed in such area for any highway project that will result in a significant increase in carrying capacity for single-occupant vehicles unless the project is part of an approved congestion management system.

"(m) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this title or the Federal Transit Act.

"(n) REPROGRAMMING OF SET ASIDE FUNDS.—Any funds set aside pursuant to section 104(f) of this title that are not used for the purpose of carrying out this section may be made available by the metropolitan planning organization to the State for the purpose of funding activities under section 135.".

(b) AMENDMENTS TO SECTION 104.—Section 104(f) of title 23, United States Code, is amended—

(1) in paragraph (1) by striking "one-half per centum" and inserting "1 percent";

(2) in paragraph (1) by striking "the Federal-aid systems" and inserting "programs authorized under this title";

(3) in paragraph (1) by striking "except that" and all that follows before the period and inserting "except that the amount from which such set aside is made shall not include funds authorized to be appropriated for the Interstate construction and Interstate substitute programs";

(4) in paragraph (3) by striking "section 120" and inserting "section 120(j)";

(5) in paragraph (4) by striking "and metropolitan area transportation needs" and inserting "attainment of air quality standards, metropolitan area transportation needs, and other factors necessary to provide for an appropriate distribution of funds to carry out the requirements of section 134 and other applicable requirements of Federal law"; and

(6) by adding at the end the following new paragraph:

"(5) DETERMINATION OF POPULATION FIGURES.—For the purposes of determining population figures under this subsection, the Secretary shall use the most recent estimate published by the Secretary of Commerce.".

(c) CONFORMING AMENDMENTS.—

(1) The analysis of chapter 1 of title 23, United States Code, is amended by striking

"Sec. 134. Transportation planning in certain urban areas."

and inserting

"Sec. 134. Metropolitan planning.".

(2) Section 104(f)(3) of title 23, United States Code, is amended by striking "designated by the State as being".

SEC. 1025. STATEWIDE PLANNING.

(a) IN GENERAL.—Section 135 of title 23, United States Code, is amended to read as follows:

"§ 135. Statewide planning

"(a) GENERAL REQUIREMENTS.—It is in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve all areas of the State efficiently and effectively. Subject to section 134 of this title, the State shall develop transportation plans and programs for all areas of the State. Such plans and programs shall provide for development of transportation facilities (including pedestrian walkways and bicycle transportation facilities) which

will function as an intermodal State transportation system. The process for developing such 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.

"(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—In carrying out planning under this section, a State shall coordinate such planning with the transportation planning activities carried out under section 134 of this title for metropolitan areas of the State and shall carry out its responsibilities for the development of the transportation portion of the State implementation plan to the extent required by the Clean Air Act.

"(c) STATE PLANNING PROCESS.—Each State shall undertake a continuous transportation planning process which shall, at a minimum, consider the following:

"(1) The results of the management systems required pursuant to subsection (b).

"(2) Any Federal, State, or local energy use goals, objectives, programs, or requirements.

"(3) Strategies for incorporating bicycle transportation facilities and pedestrian walkways in projects where appropriate throughout the State.

"(4) International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation and scenic areas, monuments and historic sites, and military installations.

"(5) The transportation needs of nonmetropolitan areas through a process that includes consultation with local elected officials with jurisdiction over transportation.

"(6) Any metropolitan area plan developed pursuant to section 134.

"(7) Connectivity between metropolitan areas within the State and with metropolitan areas in other States.

"(8) Recreational travel and tourism.

"(9) Any State plan developed pursuant to the Federal Water Pollution Control Act.

"(10) Transportation system management and investment strategies designed to make the most efficient use of existing transportation facilities.

"(11) The overall social, economic, energy, and environmental effects of transportation decisions.

"(12) Methods to reduce traffic congestion and to prevent traffic congestion from developing in areas where it does not yet occur, including methods which reduce motor vehicle travel, particularly single-occupant motor vehicle travel.

"(13) Methods to expand and enhance transit services and to increase the use of such services.

"(14) The effect of transportation decisions on land use and land development, including the need for consistency between transportation decisionmaking and the provisions of all applicable short-range and long-range land use and development plans.

"(15) The transportation needs identified through use of the management systems required by section 303 of this title.

"(16) Where appropriate, the use of innovative mechanisms for financing projects, including value capture pricing, tolls, and congestion pricing.

"(17) Preservation of rights-of-way for construction of future transportation projects, including identification of unused rights-of-way which may be needed for future transportation corridors, and identify those corridors for which action is most needed to prevent destruction or loss.

"(18) Long-range needs of the State transportation system.

"(19) Methods to enhance the efficient movement of commercial motor vehicles.

"(20) The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement.

"(d) ADDITIONAL REQUIREMENTS.—Each State in carrying out planning under this section shall, at a minimum, consider the following:

"(1) The coordination of transportation plans and programs developed for metropolitan areas of the State under section 134 with the State transportation plans and programs developed under this section and the reconciliation of such plans and programs as necessary to ensure connectivity within transportation systems.

"(2) Investment strategies to improve adjoining State and local roads that support rural economic growth and tourism development, Federal agency renewable resources management, and multipurpose land management practices, including recreation development.

"(3) The concerns of Indian tribal governments having jurisdiction over lands within the boundaries of the State.

"(e) LONG-RANGE PLAN.—The State shall develop a long-range transportation plan for all areas of the State. With respect to metropolitan areas of the State, the plan shall be developed in cooperation with metropolitan planning organizations designated for metropolitan areas in the State under section 134. With respect to areas of the State under the jurisdiction of an Indian tribal government, the plan shall be developed in cooperation with such government and the Secretary of the Interior. In developing the plan, the State shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed plan. In addition, the State shall develop a long-range plan for bicycle transportation and pedestrian walkways for appropriate areas of the State which shall be incorporated into the long-range transportation plan.

Indians.

"(f) TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—The State shall develop a transportation improvement program for all areas of the State. With respect to metropolitan areas of the State, the program shall be developed in cooperation with metropolitan planning organizations designated for metropolitan areas in the State under section 134. In developing the program, the Governor shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program.

"(2) INCLUDED PROJECTS.—A transportation improvement program for a State developed under this subsection shall include projects within the boundaries of the State which are proposed for funding under this title and the Federal Transit Act, which

are consistent with the long-range plan developed under this section for the State, which are consistent with the metropolitan transportation improvement program, and which in areas designated as nonattainment for ozone or carbon monoxide under the Clean Air Act conform with the applicable State implementation plan developed pursuant to the Clean Air Act. 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 such project within the time period contemplated for completion of the project. The program shall also reflect the priorities for programming and expenditures of funds, including transportation enhancements, required by this title.

"(3) PROJECT SELECTION FOR AREAS LESS THAN 50,000 POPULATION.—Projects undertaken in areas of less than 50,000 population (excluding projects undertaken on the National Highway System and pursuant to the bridge and Interstate maintenance programs) shall be selected by the State in cooperation with the affected local officials. Projects undertaken in such areas on the National Highway System or pursuant to the bridge and Interstate maintenance programs shall be selected 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 approved no less frequently than biennially by the Secretary.

"(g) FUNDING.—Funds set aside pursuant to section 307(c)(1) of title 23, United States Code, shall be available to carry out the requirements of this section.

"(h) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT SYSTEMS.—For purposes of this section, section 134, and section 8 of the Federal Transit Act, United States Code, State laws, rules or regulations pertaining to congestion management systems or programs may constitute the congestion management system under this Act if the Secretary finds that the State laws, rules or regulations are consistent with, and fulfill the intent of, the purposes of this section, section 134 or section 8 of such Act, as appropriate.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by striking the item relating to section 135 and inserting the following:

"135. Statewide planning.".

SEC. 1026. NONDISCRIMINATION.

(a) FUNDING OF HIGHWAY CONSTRUCTION TRAINING.—Subsection (b) of section 140 of title 23, United States Code, is amended by adding at the end the following new sentence: "Notwithstanding any other provision of law, not to exceed ¼ of 1 percent of funds apportioned to a State for the surface transportation program under section 104(b) and the bridge program under section 144 may be available to carry out this subsection upon request of the State highway department to the Secretary.".

(b) ELIGIBILITY FOR TRAINING PROGRAMS.—Subsections (b) and (c) of section 140 of such title are each amended by inserting "Indian tribal government," after "institution,".

(c) INDIAN EMPLOYMENT PREFERENCE.—Section 140(d) of such title is amended by inserting after the first sentence the following new sentence: "States may implement a preference for employment of

Indians on projects carried out under this title near Indian reservations.".

SEC. 1027. PUBLIC TRANSPORTATION.

(a) IMPROVED ACCESS BETWEEN INTERCITY AND RURAL BUS SERVICE.—Section 142(a)(2) of title 23, United States Code, is amended—

(1) by striking ", beginning with the fiscal year ending June 30, 1975,";

(2) by striking "Federal-aid urban system," the first place it appears and inserting "the surface transportation program"; and

(3) by striking "104(b)(6)" the first place it appears and all that follows through the period at the end and inserting "104(b)(3) for carrying out any capital transit project eligible for assistance under the Federal Transit Act, capital improvement to provide access and coordination between intercity and rural bus service, and construction of facilities to provide connections between highway transportation and other modes of transportation.".

(b) ACCOMMODATION OF OTHER MODES.—Section 142(c) of such title is amended to read as follows:

"(c) ACCOMMODATION OF OTHER MODES OF TRANSPORTATION.—The Secretary may approve as a project on any Federal-aid system for payment from sums apportioned under section 104(b) (other than section 104(b)(5)(A)) modifications to existing highway facilities on such system necessary to accommodate other modes of transportation if such modifications will not adversely affect automotive safety.".

(c) METROPOLITAN PLANNING.—Section 142(d) of such title is amended to read as follows:

"(d) METROPOLITAN PLANNING.—Any project carried out under this section in an urbanized area shall be subject to the metropolitan planning requirements of section 134.".

(d) AVAILABILITY OF RIGHTS-OF-WAY.—Section 142(g) of such title is amended to read as follows:

"(g) AVAILABILITY OF RIGHTS-OF-WAY.—In any case where sufficient land or air space exits within the publicly acquired rights-of-way of any highway, constructed in whole or in part with Federal-aid highway funds, to accommodate needed passenger, commuter, or high speed rail, magnetic levitation systems, and highway and nonhighway public mass transit facilities, the Secretary shall authorize a State to make such lands, air space, and rights-of-way available with or without charge to a publicly or privately owned authority or company or any other person for such purposes if such accommodation will not adversely affect automotive safety.".

(e) CONFORMING AMENDMENTS TO SECTION 142.—Section 142 of such title is amended—

(1) in subsection (e)(2) by striking "Federal-aid urban system" and inserting "surface transportation program";

(2) by striking subsections (f) and (k);

(3) by redesignating subsections (g), (h), (i), and (j) as subsections (f), (g), (h), and (i), respectively;

(4) in subsection (g), as so redesignated, by striking "or subsection (c) of this section"; and

(5) in each of subsections (h) and (i), as so redesignated, by striking "and subsection (c)".

(f) CONFORMING AMENDMENT TO SECTION 156.—Section 156 of such title is amended by striking "States shall" and inserting "Subject to section 142(f), States shall". 23 USC 156.

SEC. 1028. BRIDGE PROGRAM.

(a) INVENTORY OF INDIAN RESERVATION AND PARK BRIDGES.—Section 144(c) of title 23, United States Code, is amended by adding at the end the following new paragraph:

"(3) INVENTORY OF INDIAN RESERVATION AND PARK BRIDGES.—As part of the activities carried out under paragraph (1), the Secretary, in consultation with the Secretary of the Interior, shall (A) inventory all those highway bridges on Indian reservation roads and park roads which are bridges over waterways, other topographical barriers, other highways, and railroads, (B) classify them according to serviceability, safety, and essentiality for public use, (C) based on the classification, assign each a priority for replacement or rehabilitation, and (D) determine the cost of replacing each such bridge with a comparable facility or of rehabilitating such bridge.".

(b) BRIDGE STRUCTURE PAINTING AND ACETATE APPLICATION.—Section 144(d) of such title is amended—

(1) by inserting after the first sentence the following new sentence: "Whenever any State makes application to the Secretary for assistance in painting and seismic retrofit, or applying calcium magnesium acetate to, the structure of a highway bridge, the Secretary may approve Federal participation in the painting or seismic retrofit of, or application of such acetate to, such structure."; and

(2) by inserting after "projects" the first place it appears in the last sentence the following: "(other than projects for bridge structure painting or seismic retrofit or application of such acetate)".

(c) FEDERAL SHARE.—Section 144(f) of such title is amended by striking "highway bridge replaced or rehabilitated" and inserting "project".

(d) DISCRETIONARY BRIDGE PROGRAM.—Section 144(g)(1) of such title is amended to read as follows:

"(1) DISCRETIONARY BRIDGE PROGRAM.—Of the amounts authorized for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 by section 103 of the Intermodal Surface Transportation Efficiency Act of 1991, all but $57,000,000 in the case of fiscal year 1992, $68,000,000 in the case of fiscal years 1993 and 1994, and $69,000,000 in the case of fiscal years 1995, 1996, and 1997 shall be apportioned as provided in subsection (e) of this section. $49,000,000 in the case of fiscal year 1992, $59,500,000 in the case of fiscal years 1993 and 1994, and $60,500,000 in the case of fiscal years 1995, 1996, and 1997 of the amount authorized for each of such fiscal years shall be available for obligation on the date of each such apportionment in the same manner and to the same extent as the sums apportioned on such date, except that the obligation of $49,000,000 in the case of fiscal year 1992, $59,500,000 in the case of fiscal years 1993 and 1994, and $60,500,000 in the case of fiscal years 1995, 1996, and 1997 shall be at the discretion of the Secretary, and $8,500,000 per fiscal year ($8,000,000 in the case of fiscal year 1992) of the amount authorized for each of such fiscal years shall be available in accordance with section 1039 of the Intermodal Surface

Transportation Efficiency Act of 1991, relating to highway timber bridges.".

(e) OFF-SYSTEM BRIDGES.—

23 USC 144.

(1) ALLOCATION OF FUNDS.—Section 144(g)(3) of such title is amended—

(A) by striking "and 1991" and inserting "1991, 1992, 1993, 1994, 1995, 1996, and 1997"; and

(B) by striking "or rehabilitate" and inserting ", rehabilitate, paint or seismic retrofit, or apply calcium magnesium acetate to".

(2) APPLICABILITY OF STATE STANDARDS FOR PROJECTS.—Section 144 of such title is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) APPLICABILITY OF STATE STANDARDS FOR PROJECTS.—A project not on a Federal-aid highway under this section shall be designed, constructed, operated, and maintained in accordance with State laws, regulations, directives, safety standards, design standards, and construction standards.".

(f) SET-ASIDE FOR INDIAN RESERVATION BRIDGES.—Section 144(g) of this title is amended by adding at the end the following new paragraph:

"(4) INDIAN RESERVATION BRIDGES.—Not less than 1 percent of the amount apportioned to each State which has an Indian reservation within its boundaries for each fiscal year shall be expended for projects to replace, rehabilitate, paint, or apply calcium magnesium acetate to highway bridges located on Indian reservation roads. Upon determining a State bridge apportionment and before transferring funds to the States, the Secretary shall transfer the Indian reservation bridge allocation under this paragraph to the Secretary of the Interior for expenditure pursuant to this paragraph. The Secretary, after consultation with State and Indian tribal government officials and with the concurrence of the Secretary of the Interior, may, with respect to such State, reduce the requirement for expenditure for bridges under this paragraph when the Secretary determines that there are inadequate needs to justify such expenditure. The non-Federal share payable on account of such a project may be provided from funds made available for Indian reservation roads under chapter 2 of this title.".

(g) TRANSFERABILITY OF BRIDGE APPORTIONMENTS.—Section 104(g) of such title is amended by inserting before the last sentence the following new sentence: "A State may transfer not to exceed 40 percent of the State's apportionment under section 144 in any fiscal year to the apportionment of such State under subsection (b)(1) or subsection (b)(3) of this section. Any transfer to subsection (b)(3) shall not be subject to section 133(d).".

SEC. 1029. NATIONAL MAXIMUM SPEED LIMIT COMPLIANCE PROGRAM.

(a) PERMANENT EXTENSION OF 65 MPH SPEED LIMIT DEMONSTRATION PROGRAM.—Section 154(a) of title 23, United States Code, is amended by striking "Clause (3)" and inserting "Clause (4)" and by striking "or (3)" and inserting the following: "(3) a maximum speed limit in excess of 65 miles per hour on any highway within its jurisdiction located outside an urbanized area of 50,000 population or more (A) which is constructed to interstate standards in accordance with section 109(b) of this title and connected to a highway on

the Interstate System, (B) which is a divided 4-lane fully controlled access highway designed or constructed to connect to a highway on the Interstate System posted at 65 miles per hour and constructed to design and construction standards as determined by the Secretary which provide a facility adequate for a speed limit of 65 miles per hour, or (C) which is constructed to the geometric and construction standards adequate for current and probable future traffic demands and for the needs of the locality and is designated by the Secretary as part of the Interstate System in accordance with section 139(c) of this title, or (4)".

(b) COLLECTION OF DATA.—Section 154(e) of such title is amended— 23 USC 154.

(1) by striking "fifty-five miles per hour on public highways with speed limits posted at fifty-five miles per hour" and inserting "the speed limit on maximum speed limit highways"; and

(2) by adding at the end the following: "Such data shall include, but not be limited to, data on citations, travel speeds, and the posted speed limit and the design characteristics of roads from which such travel speed data are gathered. The Secretary shall issue regulations which ensure (1) that the monitoring programs conducted by the States to collect data for purposes of this subsection are uniform, (2) that devices and equipment under such programs are placed at locations on maximum speed limit highways on a scientifically random basis which takes into account the relative risk, as determined by the Secretary, of motor vehicle accidents occurring considering the classes of such highways and the speeds at which vehicles are traveling on such classes of highways, and (3) that the data submitted under this subsection will be in such form as the Secretary determines is necessary to carry out this section.".

(c) ENFORCEMENT.—

(1) PROPOSED RULE.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall publish in the Federal Register a proposed rule to establish speed limit enforcement requirements which, at a minimum, shall— Federal Register, publication. 23 USC 154 note.

(A) provide for the transfer of apportionments under section 104(b) of title 23, United States Code (other than paragraph (5)), if a State fails to enforce speed limits in accordance with this section and such rule; and

(B) include a formula for determining compliance with the requirements of this section and such rule which—

(i) assigns a greater weight for violations of such speed limits in proportion to the amount by which the speed of the motor vehicle exceeds the speed limit; and

(ii) differentiates between the type of road on which the violations occur.

(2) FACTORS TO CONSIDER.—In developing the compliance formula in accordance with paragraph (1), the Secretary shall consider factors relating to the enforcement efforts made by the States and data concerning fatalities and serious injuries occurring on roads to which subsection (a) applies and any other factors relating to speed limit enforcement and speed-related highway safety trends which the Secretary determines appropriate.

(3) FINAL RULE.—Not later than 60 days after the date of publication of the proposed rule under paragraph (1), the Secretary shall publish in the Federal Register a final rule which meets the requirements of paragraph (1) and which shall take Federal Register, publication.

effect no later than 12 months after the date of its publication in the Federal Register.

23 USC 154 note.

(d) ADMINISTRATION.—The Secretary shall carry out sections 154 and 141(a) of title 23, United States Code, through the National Highway Traffic Safety Administration and the Federal Highway Administration.

(e) ANNUAL REPORT.—Section 154 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(i) ANNUAL REPORT.—The Secretary shall transmit to Congress an annual report on travel speeds of motor vehicles on roads subject to subsection (a), State enforcement efforts with respect to speeding violations on such roads, and speed-related highway safety statistics.".

23 USC 154 note.

(f) ENFORCEMENT MORATORIUM.—No State shall be subject under section 141 or 154 of title 23, United States Code, to withholding of apportionments for failure to comply in fiscal years 1990 and 1991 with section 154 of such title, as in effect on the day before the date of the enactment of this Act, or section 141(a) of such title.

(g) REPEAL OF OBSOLETE ENFORCEMENT PROVISIONS.—On the 730th day following the date of the enactment of this Act, subsections (f), (g), and (h) of section 154 of title 23, United States Code, are repealed.

SEC. 1030. ROAD SEALING ON INDIAN RESERVATION ROADS.

Section 204(c) of title 23, United States Code, is amended by adding at the end the following new sentences: "Notwithstanding any other provision of this title, Indian reservation roads under the jurisdiction of the Bureau of Indian Affairs of the Department of the Interior shall be eligible to expend not more than 15 percent funds apportioned for Indian reservation roads from the Highway Trust Fund for the purpose of road sealing projects. The Bureau of Indian Affairs shall continue to retain responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations.".

SEC. 1031. USE OF SAFETY BELTS AND MOTORCYCLE HELMETS.

(a) PROGRAM.—

(1) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by inserting after section 152 the following new section:

"§ 153. Use of safety belts and motorcycle helmets

"(a) AUTHORITY TO MAKE GRANTS.—The Secretary may make grants to a State in a fiscal year in accordance with this section if the State has in effect in such fiscal year—

"(1) a law which makes unlawful throughout the State the operation of a motorcycle if any individual on the motorcycle is not wearing a motorcycle helmet; and

"(2) a law which makes unlawful throughout the State the operation of a passenger vehicle whenever an individual in a front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly fastened about the individual's body.

"(b) USE OF GRANTS.—A grant made to a State under this section shall be used to adopt and implement a traffic safety program to carry out the following purposes:

"(1) EDUCATION.—To educate the public about motorcycle and passenger vehicle safety and motorcycle helmet, safety belt, and child restraint system use and to involve public health education agencies and other related agencies in these efforts.

"(2) TRAINING.—To train law enforcement officers in the enforcement of State laws described in subsection (a).

"(3) MONITORING.—To monitor the rate of compliance with State laws described in subsection (a).

"(4) ENFORCEMENT.—To enforce State laws described in subsection (a).

"(c) MAINTENANCE OF EFFORT.—A grant may not be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for any traffic safety program described in subsection (b) at or above the average level of such expenditures in the State's 2 fiscal years preceding the date of the enactment of this section. Contracts.

"(d) FEDERAL SHARE.—A State may not receive a grant under this section in more than 3 fiscal years. The Federal share payable for a grant under this section shall not exceed—

"(1) in the first fiscal year the State receives a grant, 75 percent of the cost of implementing in such fiscal year a traffic safety program described in subsection (b);

"(2) in the second fiscal year the State receives a grant, 50 percent of the cost of implementing in such fiscal year such traffic safety program; and

"(3) in the third fiscal year the State receives a grant, 25 percent of the cost of implementing in such fiscal year such traffic safety program.

"(e) MAXIMUM AGGREGATE AMOUNT OF GRANTS.—The aggregate amount of grants made to a State under this section shall not exceed 90 percent of the amount apportioned to such State for fiscal year 1990 under section 402.

"(f) ELIGIBILITY FOR GRANTS.—

"(1) GENERAL RULE.—A State is eligible in a fiscal year for a grant under this section only if the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State implements in such fiscal year a traffic safety program described in subsection (b).

"(2) SECOND-YEAR GRANTS.—A State is eligible for a grant under this section in a fiscal year succeeding the first fiscal year in which a State receives a grant under this section only if the State in the preceding fiscal year—

"(A) had in effect at all times a State law described in subsection (a)(1) and achieved a rate of compliance with such law of not less than 75 percent; and

"(B) had in effect at all times a State law described in subsection (a)(2) and achieved a rate of compliance with such law of not less than 50 percent.

"(3) THIRD-YEAR GRANTS.—A State is eligible for a grant under this section in a fiscal year succeeding the second fiscal year in which a State receives a grant under this section only if the State in the preceding fiscal year—

"(A) had in effect at all times a State law described in subsection (a)(1) and achieved a rate of compliance with such law of not less than 85 percent; and

"(B) had in effect at all times a State law described in subsection (a)(2) and achieved a rate of compliance with such law of not less than 70 percent.

"(g) MEASUREMENTS OF RATES OF COMPLIANCE.—For the purposes of subsections (f)(2) and (f)(3), a State shall measure compliance with State laws described in subsection (a) using methods which conform to guidelines issued by the Secretary ensuring that such measurements are accurate and representative.

"(h) PENALTY.—

"(1) FISCAL YEAR 1994.—If, at any time in fiscal year 1994, a State does not have in effect a law described in subsection (a)(1) and a law described in subsection (a)(2), the Secretary shall transfer 1½ percent of the funds apportioned to the State for fiscal year 1995 under each of subsections (b)(1), (b)(2), and (b)(3) of section 104 of this title to the apportionment of the State under section 402 of this title.

"(2) THEREAFTER.—If, at any time in a fiscal year beginning after September 30, 1994, a State does not have in effect a law described in subsection (a)(1) and a law described in subsection (a)(2), the Secretary shall transfer 3 percent of the funds apportioned to the State for the succeeding fiscal year under each of subsections (b)(1), (b)(2), and (b)(3) of section 104 of this title to the apportionment of the State under section 402 of this title.

"(3) FEDERAL SHARE.—The Federal share of the cost of any project carried out under section 402 with funds transferred to the apportionment of section 402 shall be 100 percent.

"(4) TRANSFER OF OBLIGATION AUTHORITY.—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 allocate an amount of obligation authority distributed for such fiscal year to the State for Federal-aid highways and highway safety 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 Federal-aid highways and highway safety construction programs to the total of the sums apportioned to the State for Federal-aid highways and highway safety construction (excluding sums not subject to any obligation limitation) for such 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 carried out by the Federal Highway Administration under section 402 shall apply to funds transferred under this subsection to the apportionment of section 402.

"(i) DEFINITIONS.—For the purposes of this section, the following definitions apply:

"(1) MOTORCYCLE.—The term 'motorcycle' means a motor vehicle which is designed to travel on not more than 3 wheels in contact with the surface.

"(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning such term has under section 154 of this title.

"(3) PASSENGER VEHICLE.—The term 'passenger vehicle' means a motor vehicle which is designed for transporting 10 individ-

uals or less, including the driver, except that such term does not include a vehicle which is constructed on a truck chassis, a motorcycle, a trailer, or any motor vehicle which is not required on the date of the enactment of this section under a Federal motor vehicle safety standard to be equipped with a belt system.

"(4) SAFETY BELT.—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.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $17,000,000 for fiscal year 1992. From sums made available to carry out section 402 of this title, the Secretary shall make available $17,000,000 for fiscal year 1992 and $24,000,000 for each of fiscal years 1993 and 1994 to carry out this section.

"(k) APPLICABILITY OF CHAPTER 1 PROVISIONS.—All provisions of this chapter that are applicable to National Highway System funds, other than provisions relating to the apportionment formula and provisions limiting the expenditures of such funds to Federal-aid systems, shall apply to funds authorized to be appropriated to carry out this section, except as determined by the Secretary to be inconsistent with this section and except that sums authorized by this section shall remain available until expended.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by inserting after the item relating to section 152 the following new item:

"153. Use of safety belts and motorcycle helmets.".

(b) STUDY.— 23 USC 153 note.

(1) IN GENERAL.—The Secretary shall conduct a study or studies to determine the benefits of safety belt use and motorcycle helmet use for individuals involved in motor vehicle crashes and motorcycle crashes, collecting and analyzing data from regional trauma systems regarding differences in the following: the severity of injuries; acute, rehabilitative and long-term medical costs, including the sources of reimbursement and the extent to which these sources cover actual costs; government, employer, and other costs; and mortality and morbidity outcomes. The study shall cover a representative period after January 1, 1990.

(2) REPORT.—The Secretary shall make public a proposed report on the results of the study or studies conducted under this subsection, provide a period of 90 days for public comment on such report, consider such comments, and transmit to Congress a report on the results of such study or studies, together with a summary of such comments, not later than 40 months after the funds for such study are made available by the Secretary. Public information.

(3) FUNDING.—Of the amounts authorized to be appropriated for fiscal year 1992 or 1993 (or both) to carry out section 153 of title 23, United States Code, the Secretary shall make available $5,000,000 in the aggregate in such fiscal years to carry out this subsection. Such funds shall remain available until expended.

SEC. 1032. FEDERAL LANDS HIGHWAYS PROGRAM.

(a) ALLOCATIONS.—Section 202 of title 23, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), (d), and (e) as subsections (a), (b), (c), and (d), respectively;

(3) by inserting after "allocate" in subsection (b), as so redesignated, "34 percent of"; and

(4) by striking the period at the end of subsection (b), as so redesignated, and inserting the following: "which are proposed by a State which contains at least 3 percent of the total public lands in the Nation. The Secretary shall allocate 66 percent of the remainder of the authorization for public lands highways for each fiscal year as is provided in section 134 of the Federal-Aid Highway Act of 1987, and with respect to these allocations the Secretary shall give equal consideration to projects that provide access to and within the National Forest System, as identified by the Secretary of Agriculture through renewable resources and land use planning and the impact of such planning on existing transportation facilities.".

(b) PROJECTS.—Section 204 of such title is amended—

(1) in subsection (a) by striking "forest highways," and by adding at the end of such subsection the following new sentences: "The Secretary, in cooperation with the Secretary of the Interior and the Secretary of Agriculture, shall develop appropriate transportation planning procedures and safety, bridge, and pavement management systems for roads funded under the Federal Lands Highway Program. Notwithstanding any other provision of this title, no public lands highway project may be undertaken in any State pursuant to this section unless the State concurs in the selection and planning of the project.";

(2) in subsection (b)—

(A) by striking "construction and improvements thereof" and inserting "planning, research, engineering and construction thereof";

(B) by striking "forest highways and"; and

(C) by adding at the end the following new sentence: "Funds available for each class of Federal lands highways shall be available for any kind of transportation project eligible for assistance under this title that is within or adjacent to or provides access to the areas served by the particular class of Federal lands highways.";

(3) in subsection (c) by striking "on a Federal-aid system" and inserting "eligible for funds apportioned under section 104 or section 144 of this title"; and

(4) by striking subsection (h) and inserting the following new subsections:

"(h) ELIGIBLE PROJECTS.—Funds available for each class of Federal lands highways may be available for the following:

"(1) Transportation planning for tourism and recreational travel including the National Forest Scenic Byways Program, Bureau of Land Management Back Country Byways Program, National Trail System Program, and other similar Federal programs that benefit recreational development.

"(2) Adjacent vehicular parking areas.

"(3) Interpretive signage.

"(4) Acquisition of necessary scenic easements and scenic or historic sites.

"(5) Provision for pedestrians and bicycles.

"(6) Construction and reconstruction of roadside rest areas including sanitary and water facilities.

"(7) Other appropriate public road facilities such as visitor centers as determined by the Secretary.

"(i) TRANSFERS TO SECRETARY OF THE INTERIOR.—The Secretary shall transfer to the Secretary of the Interior from the appropriation for public land highways amounts as may be needed to cover necessary administrative costs of the Bureau of Land Management in connection with public lands highways.

"(j) INDIAN RESERVATION ROADS PLANNING.—Up to 2 percent of funds made available for Indian reservation roads for each fiscal year shall be allocated to those Indian tribal governments applying for transportation planning pursuant to the provisions of the Indian Self-Determination and Education Assistance Act. The Indian tribal government, in cooperation with the Secretary of the Interior, and, as may be appropriate, with a State, local government, or metropolitan planning organization, shall develop a transportation improvement program, that includes all Indian reservation road projects proposed for funding. Projects shall be selected by the Indian tribal government from the transportation improvement program and shall be subject to the approval of the Secretary of the Interior and the Secretary.".

(c) FOREST DEVELOPMENT ROADS AND TRAILS.—Section 205(c) of such title is amended by striking "$15,000" each place it appears and inserting "$50,000". 23 USC 205.

(d) INDIAN RESERVATION ROADS.—Notwithstanding any other provision of law, funds allocated for Indian reservation roads may be used for the purpose of funding road projects on roads of tribally controlled postsecondary vocational institutions. 23 USC 202 note.

(e) REPORT.—The Secretary shall undertake a study to determine if the method for allocating funds authorized for Federal lands highways is adequate to meet the relative transportation needs of the Federal lands served. The report shall be submitted within 2 years of the date of the enactment of this Act. 23 USC 202 note.

(f) CONFORMING AMENDMENTS.—Section 203 of title 23, United States Code, is amended by striking "forest highways" each place it appears.

SEC. 1033. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

Section 217 of title 23, United States Code, is amended to read as follows:

"§ 217. Bicycle transportation and pedestrian walkways

"(a) USE OF STP AND CONGESTION MITIGATION PROGRAM FUNDS.—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under sections 104(b)(2) and 104(b)(3) of this title for construction of pedestrian walkways and bicycle transportation facilities and for carrying out nonconstruction projects related to safe bicycle use.

"(b) USE OF NATIONAL HIGHWAY SYSTEM FUNDS.—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under section 104(b)(1) of this title for construction of bicycle transportation facilities on land adjacent to any highway on the National Highway System (other than the Interstate System).

"(c) USE OF FEDERAL LANDS HIGHWAY FUNDS.—Funds authorized for forest highways, forest development roads and trails, public lands development roads and trails, park roads, parkways, Indian reservation roads, and public lands highways shall be available, at the discretion of the department charged with the administration of such funds, for the construction of pedestrian walkways and bicycle transportation facilities in conjunction with such trails, roads, highways, and parkways.

"(d) STATE BICYCLE AND PEDESTRIAN COORDINATORS.—Each State receiving an apportionment under sections 104(b)(2) and 104(b)(3) of this title shall use such amount of the apportionment as may be necessary to fund in the State department of transportation a position of bicycle and pedestrian coordinator for promoting and facilitating the increased use of nonmotorized modes of transportation, including developing facilities for the use of pedestrians and bicyclists and public education, promotional, and safety programs for using such facilities.

"(e) BRIDGES.—In any case where a highway bridge deck being replaced or rehabilitated with Federal financial participation is located on a highway, other than a highway access to which is fully controlled, on which bicycles are permitted to operate at each end of such bridge, and the Secretary determines that the safe accommodation of bicycles can be provided at reasonable cost as part of such replacement or rehabilitation, then such bridge shall be so replaced or rehabilitated as to provide such safe accommodations.

"(f) FEDERAL SHARE.—For all purposes of this title, construction of a pedestrian walkway and a bicycle transportation facility shall be deemed to be a highway project and the Federal share payable on account of such construction shall be 80 percent.

"(g) PLANNING.—Pedestrian walkways and bicycle transportation facilities to be constructed under this section shall be located and designed pursuant to an overall plan to be developed by each metropolitan planning organization and State and incorporated into their comprehensive annual long-range plans in accordance with sections 134 and 135 of this title, respectively. Such plans shall provide due consideration for safety and contiguous routes.

"(h) USE OF MOTORIZED VEHICLES.—No motorized vehicles shall be permitted on trails and pedestrian walkways under this section, except for—

"(1) maintenance purposes;

"(2) when snow conditions and State or local regulations permit, snowmobiles;

"(3) when State and local regulations permit, motorized wheelchairs; and

"(4) such other circumstances as the Secretary deems appropriate.

"(i) TRANSPORTATION PURPOSE.—No bicycle project may be carried out under this section unless the Secretary has determined that such bicycle project will be principally for transportation, rather than recreation, purposes.

"(j) BICYCLE TRANSPORTATION FACILITY DEFINED.—For purposes of this section, a 'bicycle transportation facility' means new or improved lanes, paths, or shoulders for use by bicyclists, traffic control devices, shelters, and parking facilities for bicycles.".

SEC. 1034. MANAGEMENT SYSTEMS.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 302 the following new section:

"§ 303. Management systems

"(a) REGULATIONS.—Not later than 1 year after the date of the enactment of this section, the Secretary shall issue regulations for State development, establishment, and implementation of a system for managing each of the following:

"(1) Highway pavement of Federal-aid highways.
"(2) Bridges on and off Federal-aid highways.
"(3) Highway safety.
"(4) Traffic congestion.
"(5) Public transportation facilities and equipment.
"(6) Intermodal transportation facilities and systems.

In metropolitan areas, such systems shall be developed and implemented in cooperation with metropolitan planning organizations. Such regulations may include a compliance schedule for development, establishment, and implementation of each such system and minimum standards for each such system.

"(b) TRAFFIC MONITORING.—Not later than 1 year after the date of the enactment of this section, the Secretary shall issue guidelines and requirements for the State development, establishment, and implementation of a traffic monitoring system for highways and public transportation facilities and equipment.

"(c) STATE REQUIREMENTS.—The Secretary may withhold up to 10 percent of the funds apportioned under this title and under the Federal Transit Act for any fiscal year beginning after September 30, 1995, to any State and any recipient of assistance under such Act in the State unless, in the preceding fiscal year, the State was implementing each of the management systems described in subsection (a) and, before January 1 of the preceding fiscal year, the State certified, in writing, to the Secretary, that the State was implementing each of such management systems in the preceding fiscal year.

"(d) PROCEDURAL REQUIREMENTS.—In developing and implementing a management system under this section, each State shall cooperate with metropolitan planning organizations for urbanized areas of the State and affected agencies receiving assistance under the Federal Transit Act and shall consider the results of the management systems in making project selection decisions under this title and under such Act.

"(e) INTERMODAL REQUIREMENTS.—The management system required under this section for intermodal transportation facilities and systems shall provide for improvement and integration of all of a State's transportation systems and shall include methods of achieving the optimum yield from such systems, methods for increasing productivity in the State, methods for increasing use of advanced technologies, and methods to encourage the use of innovative marketing techniques, such as just-in-time deliveries.

"(f) ANNUAL REPORT.—Not later than January 1 of each calendar year beginning after December 31, 1992, the Secretary shall transmit to Congress a report on the progress being made by the Secretary and the States in carrying out this section.

"(g) FUNDING.—Subject to project approval by the Secretary, a State may obligate funds apportioned after September 30, 1991, under subsections (b)(1), (b)(2), and (b)(3) of section 104 of this title for

developing and establishing management systems required by this section and funds apportioned under section 144 of this title for developing and establishing the bridge management system required by this section.

"(h) REVIEW OF REGULATIONS.—Not later than 10 days after the date of issuance of any regulation under this section, the Secretary shall transmit a copy of such regulation to Congress for review.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of such title is amended by inserting after the item relating to section 302 the following new item:

"303. Management systems.".

SEC. 1035. LIMITATION ON DISCOVERY OF CERTAIN REPORTS AND SURVEYS.

(a) IN GENERAL.—Section 409 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 409. Discovery and admission as evidence of certain reports and surveys"; and

(2) by striking "admitted into evidence in Federal or State court" and inserting "subject to discovery or admitted into evidence in a Federal or State court proceeding".

(b) CONFORMING AMENDMENT.—The analysis for chapter 4 of such title is amended by striking the item relating to section 409 and inserting the following:

"409. Discovery and admission as evidence of certain reports and surveys.".

Science and technology.

SEC. 1036. NATIONAL HIGH-SPEED GROUND TRANSPORTATION PROGRAMS.

(a) DECLARATION OF POLICY.—Section 302 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) It is the policy of the United States to promote the construction and commercialization of high-speed ground transportation systems by—

"(A) conducting economic and technological research;

"(B) demonstrating advancements in high-speed ground transportation technologies;

"(C) establishing a comprehensive policy for the development of such systems and the effective integration of the various high-speed ground transportation technologies; and

"(D) minimizing the long-term risks of investors.

"(2) It is the policy of the United States to establish in the shortest time practicable a United States designed and constructed magnetic levitation transportation technology capable of operating along Federal-aid highway rights-of-way, as part of a national transportation system of the United States.".

49 USC 309 note.

(b) NATIONAL MAGNETIC LEVITATION PROTOTYPE DEVELOPMENT PROGRAM.—

(1) MANAGEMENT OF PROGRAM.—There is hereby established a national magnetic levitation prototype development program to be managed by a program director appointed jointly by the Secretary and the Assistant Secretary of the Army for Civil Works (hereinafter in this subsection referred to as the "Assistant Secretary"). To carry out such program, the Secretary and the Assistant Secretary shall establish a national maglev joint project office (hereinafter in this subsection referred to as the

"Maglev Project Office"), which shall be headed by the program director, and shall enter into such arrangements as may be necessary for funding, staffing, office space, and other requirements that will allow the Maglev Project Office to carry out its functions. In carrying out such program, the program director shall consult with appropriate Federal officials, including the Secretary of Energy and the Administrator of the Environmental Protection Agency.

(2) PHASE ONE CONTRACTS.—

(A) REQUEST FOR PROPOSALS.—Not later than 12 months after the date of the enactment of this Act, the Maglev Project Office shall release a request for proposals for development of conceptual designs for a maglev system and for research to facilitate the development of such conceptual designs.

(B) AWARD OF CONTRACTS.—Not later than 15 months after the date of the enactment of this Act, the Secretary and the Assistant Secretary shall, based on the recommendations of the program director, award 1-year contracts for research and development to no fewer than 5 eligible applicants. If fewer than 5 complete applications have been received, contracts shall be awarded to as many eligible applicants as is practical.

(C) FACTORS AND CONDITIONS TO BE CONSIDERED.—The Secretary and the Assistant Secretary may approve contracts under subparagraph (B) only after consideration of factors relating to the construction and operation of a magnetic levitation system, including the cost-effectiveness, ease of maintenance, safety, limited environmental impact, ability to achieve sustained high speeds, ability to operate along the Interstate highway rights-of-way, the potential for the guideway design to be a national standard, the applicant's resources, capabilities, and history of successfully designing and developing systems of similar complexity, and the desirability of geographic diversity among contractors and only if the applicant agrees to submit a report to the Maglev Project Office detailing the results of the research and development and agrees to provide for matching of the phase one contract at a 90 percent Federal, 10 percent non-Federal, cost share. Reports.

(3) PHASE TWO CONTRACTS.—Within 3 months of receiving the final reports of contract activities under paragraph (2), and based only on such reports and the recommendations of the program director, the Secretary and the Assistant Secretary shall select not more than 3 eligible applicants from among the contract recipients submitting reports under paragraph (2) to receive 18-month contracts for research and development leading to a detailed design for a prototype maglev system. The Secretary and the Assistant Secretary may only award contracts under this paragraph if—

(A) they determine that the applicant has demonstrated technical merit for the conceptual design and the potential for further development of such design into an operational prototype as described in paragraph (4),

(B) the applicant agrees to submit the detailed design within such 18-month period to the Maglev Project Office and the selection committee described in paragraph (4), and

(C) the applicant agrees to provide for matching of the phase two contract at an 80 percent Federal, 20 percent non-Federal, cost share.

(4) PROTOTYPE.—

(A) SELECTION OF DESIGN.—Within 6 months of receiving the detailed designs developed under paragraph (3), the Secretary and the Assistant Secretary shall, based on the recommendations of the selection committee described in this subparagraph, select 1 design for development into a full-scale prototype, unless the Secretary and the Assistant Secretary determine jointly that no design shall be selected, based on an assessment of technical feasibility and projected cost of construction and operation of the prototype. A selection committee of 8 members, consisting of—

(i) 1 member to be appointed by the Secretary,

(ii) 1 member to be appointed by the Assistant Secretary,

(iii) 3 members to be appointed by the Senate majority and minority leaders, and

(iv) 3 members to be appointed by the Speaker of the House and the minority leader of the House,

shall be appointed not later than 1 year following the award of contracts under paragraph (3). The selection committee, within 3 months of receiving the detailed designs developed under paragraph (3), shall make a recommendation to the Secretary and the Assistant Secretary as to the best prototype design or the unsuitability of any design. The program director shall provide technical reviews of the phase two contract reports to the selection committee and otherwise provide any technical assistance that the committee requires to assist it in making a recommendation. In the event that the Secretary and the Assistant Secretary determine jointly not to select a design for development under this subsection, they shall report to Congress on the basis for such determination, together with recommendations for future action, including further research, development, or design, termination of the program, or such other action as may be appropriate.

Reports.

(B) AWARD OF CONSTRUCTION GRANT OR CONTRACT.—Unless the Secretary and the Assistant Secretary determine not to proceed pursuant to subparagraph (A), they shall, not later than 3 months after selection of a design for development into a full-scale prototype, and based on the recommendations of the program director, award 1 construction grant or contract to the applicant whose detailed design was selected under subparagraph (A) for the purpose of constructing a prototype maglev system in accordance with the selected design. Not more than 75 percent of the cost of the project shall be borne by the United States.

(C) FACTORS TO BE CONSIDERED IN SELECTION.—Selection of the detailed design under this paragraph shall be based on consideration of the following factors, among others:

(i) The project shall be capable of utilizing Interstate highway rights-of-way along or above a significant portion of its route, and may also use railroad rights-of-way along or above any portion of the railroad route.

(ii) The total length of guideway shall be at least 19 miles and allow significant full-speed operations between stops.

(iii) The project shall be constructed and ready for operational testing within 3 years after the award of the contract or grant.

(iv) The project shall provide for the conversion of the prototype to commercial operation after testing and technical evaluation is completed.

(v) The project shall be located in an area that provides a potential ridership base for future commercial operation.

(vi) The project shall utilize a technology capable of being applied in commercial service in most parts of the contiguous United States.

(vii) The project shall have at least 1 switch.

(viii) The project shall be intermodal in nature connecting a major metropolitan area with an airport, port, passenger rail station, or other transportation mode.

(D) ADDITIONAL FACTORS FOR CONSIDERATION.—In awarding a grant or contract under this paragraph, the Secretary shall encourage the development of domestic manufacturing capabilities. In selecting among eligible applicants, the Secretary shall consider existing railroads and equipment manufacturers with excess production capacity, including railroads that have experience in advanced technologies (including self-propelled cars). Business and industry.

(5) LICENSING.—

(A) PROPRIETARY RIGHTS.—No trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, which is obtained from a United States business, research, or education entity as a result of activities under this subsection shall be disclosed. Confidential information.

(B) COMMERCIAL INFORMATION.—The research, development, and use of any technology developed pursuant to an agreement reached pursuant to this subsection, including the terms under which any technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701-3714). In addition, the Secretary and the Assistant Secretary may require any grant or contract recipient to assure that research and development be performed substantially in the United States and that the products embodying the inventions made under any agreement pursuant to this subsection or produced through the use of such inventions be manufactured substantially in the United States.

(6) REPORTS.—The Secretary and the Assistant Secretary shall provide periodic reports to Congress on progress made under this subsection.

(7) ELIGIBLE APPLICANT DEFINED.—For purposes of this subsection, the term "eligible applicant" means a United States private business, United States public or private education and research organization, Federal laboratory, or a consortium of such businesses, organizations, and laboratories.

(c) TECHNOLOGY DEMONSTRATION PROGRAM; RESEARCH AND DEVELOPMENT PROGRAM.—

(1) IN GENERAL.—Subchapter I of chapter 3 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 309. High-speed ground transportation

"(a) The Secretary of Transportation, in consultation with the Secretaries of Commerce, Energy, and Defense, the Administrator of the Environmental Protection Agency, the Assistant Secretary of the Army for Public Works, and the heads of other interested agencies, shall lead and coordinate Federal efforts in the research and development of high-speed ground transportation technologies in order to foster the implementation of magnetic levitation and high-speed steel wheel on rail transportation systems as alternatives to existing transportation systems.

"(b)(1) The Secretary may award contracts and grants for demonstrations to determine the contributions that high-speed ground transportation could make to more efficient, safe, and economical intercity transportation systems. Such demonstrations shall be designed to measure and evaluate such factors as the public response to new equipment, higher speeds, variations in fares, improved comfort and convenience, and more frequent service. In connection with grants and contracts for demonstrations under this section, the Secretary shall provide for financial participation by private industry to the maximum extent practicable.

"(2)(A) In connection with the authority provided under paragraph (1), there is established a national high-speed ground transportation technology demonstration program, which shall be separate from the national magnetic levitation prototype development program established under section 1036(b) of the Intermodal Surface Transportation Efficiency Act of 1991 and shall be managed by the Secretary of Transportation.

"(B)(i) Any eligible applicant may submit to the Secretary a proposal for demonstration of any advancement in a high-speed ground transportation technology or technologies to be incorporated as a component, subsystem, or system in any revenue service high-speed ground transportation project or system under construction or in operation at the time the application is made.

Grants.
Contracts.

"(ii) Grants or contracts shall be awarded only to eligible applicants showing demonstrable benefit to the research and development, design, construction, or ultimate operation of any maglev technology or high-speed steel wheel on rail technology. Criteria to be considered in evaluating the suitability of a proposal under this paragraph shall include—

"(I) feasibility of guideway or track design and construction;

"(II) safety and reliability;

"(III) impact on the environment in comparison to other high-speed ground transportation technologies;

"(IV) minimization of land use;

"(V) effect on human factors related to high-speed ground transportation;

"(VI) energy and power consumption and cost;

"(VII) integration of high-speed ground transportation systems with other modes of transportation;

"(VIII) actual and projected ridership; and

"(IX) design of signaling, communications, and control systems.

"(C) For the purposes of this paragraph, the term 'eligible applicant' means any United States private business, State government, local government, organization of State or local government, or any combination thereof. The term does not include any business owned in whole or in part by the Federal Government.

"(D) The amount and distribution of grants or contracts made under this paragraph shall be determined by the Secretary. No grant or contract may be awarded under this paragraph to demonstrate a technology to be incorporated into a project or system located in a State that prohibits under State law the expenditure of non-Federal public funds or revenues on the construction or operation of such project or system.

"(E) Recipients of grants or contracts made pursuant to this paragraph shall agree to submit a report to the Secretary detailing the results and benefits of the technology demonstration proposed, as required by the Secretary. Reports.

"(c)(1) In carrying out the responsibilities of the Secretary under this section, the Secretary is authorized to enter into 1 or more cooperative research and development agreements (as defined by section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and 1 or more funding agreements (as defined by section 201(b) of title 35, United States Code), with United States companies for the purpose of—

"(A) conducting research to overcome technical and other barriers to the development and construction of practicable high-speed ground transportation systems and to help advance the basic generic technologies needed for these systems; and

"(B) transferring the research and basic generic technologies described in subparagraph (A) to industry in order to help create a viable commercial high-speed ground transportation industry within the United States.

"(2) In a cooperative agreement or funding agreement under paragraph (1), the Secretary may agree to provide not more than 80 percent of the cost of any project under the agreement. Not less than 5 percent of the non-Federal entity's share of the cost of any such project shall be paid in cash.

"(3) The research, development, or utilization of any technology pursuant to a cooperative agreement under paragraph (1), including the terms under which such technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

"(4) The research, development, or utilization of any technology pursuant to a funding agreement under paragraph (1), including the determination of all licensing and ownership rights, shall be subject to the provisions of chapter 18 of title 35, United States Code.

"(5) At the conclusion of fiscal year 1993 and again at the conclusion of fiscal year 1996, the Secretary shall submit reports to Congress regarding research and technology transfer activities conducted pursuant to the authorization contained in paragraph (1). Reports.

"(d)(1) Not later than June 1, 1995, the Secretary shall complete and submit to Congress a study of the commercial feasibility of constructing 1 or more high-speed ground transportation systems in the United States. Such study shall consist of—

"(A) an economic and financial analysis;

"(B) a technical assessment; and

"(C) recommendations for model legislation for State and local governments to facilitate construction of high-speed ground transportation systems.

"(2) The economic and financial analysis referred to in paragraph (1)(A) shall include—

"(A) an examination of the potential market for a nationwide high-speed ground transportation network, including a national magnetic levitation ground transportation system;

"(B) an examination of the potential markets for short-haul high-speed ground transportation systems and for intercity and long-haul high-speed ground transportation systems, including an assessment of—

"(i) the current transportation practices and trends in each market; and

"(ii) the extent to which high-speed ground transportation systems would relieve the current or anticipated congestion on other modes of transportation;

"(C) projections of the costs of designing, constructing, and operating high-speed ground transportation systems, the extent to which such systems can recover their costs (including capital costs), and the alternative methods available for private and public financing;

"(D) the availability of rights-of-way to serve each market, including the extent to which average and maximum speeds would be limited by the curvature of existing rights-of-way and the prospect of increasing speeds through the acquisition of additional rights-of-way without significant relocation of residential, commercial, or industrial facilities;

"(E) a comparison of the projected costs of the various competing high-speed ground transportation technologies;

"(F) recommendations for funding mechanisms, tax incentives, liability provisions, and changes in statutes and regulations necessary to facilitate the development of individual high-speed ground transportation systems and the completion of a nationwide high-speed ground transportation network;

"(G) an examination of the effect of the construction and operation of high-speed ground transportation systems on regional employment and economic growth;

"(H) recommendations for the roles appropriate for local, regional, and State governments to facilitate construction of high-speed ground transportation systems, including the roles of regional economic development authorities;

"(I) an assessment of the potential for a high-speed ground transportation technology export market;

"(J) recommendations regarding the coordination and centralization of Federal efforts relating to high-speed ground transportation;

"(K) an examination of the role of the National Railroad Passenger Corporation in the development and operation of high-speed ground transportation systems; and

"(L) any other economic or financial analyses the Secretary considers important for carrying out this section.

"(3) The technical assessment referred to in paragraph (1)(B) shall include—

"(A) an examination of the various technologies developed for use in the transportation of passengers by high-speed ground

transportation, including a comparison of the safety (including dangers associated with grade crossings), energy efficiency, operational efficiencies, and environmental impacts of each system;

"(B) an examination of the potential role of a United States designed maglev system, developed as a prototype under section 1036(b) of the Intermodal Surface Transportation Efficiency Act of 1991, in relation to the implementation of other high-speed ground transportation technologies and the national transportation system;

"(C) an examination of the work being done to establish safety standards for high-speed ground transportation as a result of the enactment of section 7 of the Rail Safety Improvement Act of 1988;

"(D) an examination of the need to establish appropriate technological, quality, and environmental standards for high-speed ground transportation systems;

"(E) an examination of the significant unresolved technical issues surrounding the design, engineering, construction, and operation of high-speed ground transportation systems, including the potential for the use of existing rights-of-way;

"(F) an examination of the effects on air quality, energy consumption, noise, land use, health, and safety as a result of the decreases in traffic volume on other modes of transportation that are expected to result from the full-scale development of high-speed ground transportation systems; and

"(G) any other technical assessments the Secretary considers important for carrying out this section.

"(e)(1) Within 12 months after the submission of the study required by subsection (d), the Secretary shall establish the national high-speed ground transportation policy (hereinafter in this section referred to as the 'Policy').

"(2) The Policy shall include—

"(A) provisions to promote the design, construction, and operation of high-speed ground transportation systems in the United States;

"(B) a determination whether the various competing high-speed ground transportation technologies can be effectively integrated into a national network and, if not, whether 1 or more such technologies should receive preferential encouragement from the Federal Government to enable the development of such a national network;

"(C) a strategy for prioritizing the markets and corridors in which the construction of high-speed ground transportation systems should be encouraged; and

"(D) provisions designed to promote American competitiveness in the market for high-speed ground transportation technologies.

"(3) The Secretary shall solicit comments from the public in the development of the Policy and may consult with other Federal agencies as appropriate in drafting the Policy.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 3 of such title is amended by inserting after the item relating to section 308 the following:

"309. High-speed ground transportation.".

(d) FUNDING.—

(1) OUT OF HIGHWAY TRUST FUND.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) the following sums:

(A) NATIONAL MAGNETIC LEVITATION PROTOTYPE DEVELOPMENT PROGRAM.—For the national magnetic levitation prototype development program under this section $5,000,000 for fiscal year 1992, $45,000,000 for fiscal year 1993, $100,000,000 for fiscal year 1994, $100,000,000 for fiscal year 1995, $125,000,000 for fiscal year 1996, and $125,000,000 for fiscal year 1997.

(B) NATIONAL HIGH-SPEED GROUND TRANSPORTATION TECHNOLOGY DEMONSTRATION PROGRAM.—For the national high-speed ground transportation technology demonstration program under section 309 of title 49, United States Code, $5,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(2) OUT OF GENERAL FUND.—In addition to amounts made available by paragraph (1), there is authorized to be appropriated for fiscal years 1992, 1993, 1994, 1995, 1996, and 1997—

(A) $225,000,000 for the national magnetic levitation prototype development program under this section;

(B) $25,000,000 for the national high-speed ground transportation technology demonstration program under section 309 of title 49, United States Code; and

(C) $25,000,000 for national high-speed ground transportation research and development under section 309 of title 49, United States Code.

(3) PERIOD OF AVAILABILITY.—Funds made available by and under this section shall remain available until expended.

(4) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a grant or contract with funds made available by paragraph (1) shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project.

(e) GUARANTEE OF OBLIGATIONS.—Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" after "shall be or have been used";

(B) by striking "or" after "car management systems)," and inserting in lieu thereof "(2)"; and

(C) by inserting ", or (3) to acquire, rehabilitate, improve, develop, or establish high-speed rail facilities or equipment" after "new railroad facilities";

(2) in subsection (g)—

(A) by inserting "or high-speed rail services" after "rail services" both places it appears in paragraph (3);

(B) by inserting "or passengers" after "provide shippers" in paragraph (3);

(C) by striking "or improved" and inserting in lieu thereof "improved, developed, or established" in paragraph (4);

(D) by striking "improved, rehabilitated, or acquired" and inserting in lieu thereof "acquired, rehabilitated, improved, developed, or established" in paragraph (5);

(E) by striking "and" at the end of paragraph (5);

(F) by inserting "or high-speed rail carrier" after "affected railroad" in paragraph (6);

(G) by striking the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(H) by adding at the end the following new paragraph:

"(7) in the case of high-speed rail facilities and equipment, at least 85 percent of such facilities and equipment are mined, produced, or manufactured in the United States, unless the Secretary finds in writing that—

"(A) such requirement would be inconsistent with the public interest;

"(B) such facilities and equipment could not be mined, produced, or manufactured in the United States in sufficient and reasonably available quantities of a satisfactory quality;

"(C) such a requirement would increase the cost of the facilities and equipment by more than 25 percent; or

"(D) such a requirement would result in a violation of obligations of the United States under international trade agreements.";

(3) in subsection (i)(1)—

(A) by amending subparagraph (B) to read as follows:

"(B)(i) will not use any funds or assets from railroad operations for nonrail purposes; and

"(ii) will not use any funds or assets from high-speed rail operations for purposes other than high-speed rail purposes,"; and

(B) by inserting "or high-speed rail services" after "provide rail services"; and

(4) by adding at the end the following new subsection:

"(n) DEFINITIONS.—As used in this section, the term 'high-speed rail' means all forms of nonhighway ground transportation that run on rails providing transportation service which is—

"(1) reasonably expected to reach sustained speeds of more than 125 miles per hour; and

"(2) made available to members of the general public as passengers.

Such term does not include rapid transit operations within an urban area that are not connected to the general rail system of transportation.".

(f) GENERAL ACCOUNTING OFFICE STUDY.—The Comptroller General, within 2 years after the date of the enactment of this Act, and annually thereafter, shall analyze the effectiveness of the application of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 to high-speed rail facilities and equipment, and report the results of such analysis to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

Reports.
45 USC 831 note.

SEC. 1037. RAILROAD RELOCATION DEMONSTRATION PROGRAM.

Section 163(p) of the Federal-Aid Highway Act of 1973 (23 U.S.C. 130 note) is amended by striking "and 1991," and inserting "1991, 1992, 1993, and 1994,".

SEC. 1038. USE OF RECYCLED PAVING MATERIAL.

Environmental protection.
23 USC 109 note.

(a) ASPHALT PAVEMENT CONTAINING RECYCLED RUBBER DEMONSTRATION PROGRAM.—Notwithstanding any other provision of

title 23, United States Code, or regulation or policy of the Department of Transportation, the Secretary (or a State acting as the Department's agent) may not disapprove a highway project under chapter 1 of title 23, United States Code, on the ground that the project includes the use of asphalt pavement containing recycled rubber. Under this subsection, a patented application process for recycled rubber shall be eligible for approval under the same conditions that an unpatented process is eligible for approval.

(b) STUDIES.—

(1) IN GENERAL.—The Secretary and the Administrator of the Environmental Protection Agency shall coordinate and conduct, in cooperation with the States, a study to determine—

(A) the threat to human health and the environment associated with the production and use of asphalt pavement containing recycled rubber;

(B) the degree to which asphalt pavement containing recycled rubber can be recycled; and

(C) the performance of the asphalt pavement containing recycled rubber under various climate and use conditions.

(2) DIVISION OF RESPONSIBILITIES.—The Administrator shall conduct the part of the study relating to paragraph (1)(A) and the Secretary shall conduct the part of the study relating to paragraph (1)(C). The Administrator and the Secretary shall jointly conduct the study relating to paragraph (1)(B).

(3) ADDITIONAL STUDY.—The Secretary and the Administrator, in cooperation with the States, shall jointly conduct a study to determine the economic savings, technical performance qualities, threats to human health and the environment, and environmental benefits of using recycled materials in highway devices and appurtenances and highway projects, including asphalt containing over 80 percent reclaimed asphalt, asphalt containing recycled glass, and asphalt containing recycled plastic.

(4) ADDITIONAL ELEMENTS.—In conducting the study under paragraph (3), the Secretary and the Administrator shall examine utilization of various technologies by States and shall examine the current practices of all States relating to the reuse and disposal of materials used in federally assisted highway projects.

(5) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary and the Administrator shall transmit to Congress a report on the results of the studies conducted under this subsection, including a detailed analysis of the economic savings and technical performance qualities of using such recycled materials in federally assisted highway projects and the environmental benefits of using such recycled materials in such highway projects in terms of reducing air emissions, conserving natural resources, and reducing disposal of the materials in landfills.

(c) DOT GUIDANCE.—

(1) INFORMATION GATHERING AND DISTRIBUTION.—The Secretary shall gather information and recommendations concerning the use of asphalt containing recycled rubber in highway projects from those States that have extensively evaluated and experimented with the use of such asphalt and implemented such projects and shall make available such information and

recommendations on the use of such asphalt to those States which indicate an interest in the use of such asphalt.

(2) ENCOURAGEMENT OF USE.—The Secretary should encourage the use of recycled materials determined to be appropriate by the studies pursuant to subsection (b) in federally assisted highway projects. Procuring agencies shall comply with all applicable guidelines or regulations issued by the Administrator of the Environmental Protection Agency.

(d) USE OF ASPHALT PAVEMENT CONTAINING RECYCLED RUBBER.—

(1) STATE CERTIFICATION.—Beginning on January 1, 1995, and annually thereafter, each State shall certify to the Secretary that such State has satisfied the minimum utilization requirement for asphalt pavement containing recycled rubber established by this section. The minimum utilization requirement for asphalt pavement containing recycled rubber as a percentage of the total tons of asphalt laid in such State and financed in whole or part by any assistance pursuant to title 23, United States Code, shall be—

(A) 5 percent for the year 1994;

(B) 10 percent for the year 1995;

(C) 15 percent for the year 1996; and

(D) 20 percent for the year 1997 and each year thereafter.

(2) OTHER MATERIALS.—Any recycled material or materials determined to be appropriate by the studies under subsection (b) may be substituted for recycled rubber under the minimum utilization requirement of paragraph (1) up to 5 percent.

(3) INCREASE.—The Secretary may increase the minimum utilization requirement of paragraph (1) for asphalt pavement containing recycled rubber to be used in federally assisted highway projects to the extent it is technologically and economically feasible to do so and if an increase is appropriate to assure markets for the reuse and recycling of scrap tires. The minimum utilization requirement for asphalt pavement containing recycled rubber may not be met by any use or technique found to be unsuitable for use in highway projects by the studies under subsection (b).

(4) PENALTY.—The Secretary shall withhold from any State that fails to make a certification under paragraph (1) for any fiscal year, a percentage of the apportionments under section 104 (other than subsection (b)(5)(A)) of title 23, United States Code, that would otherwise be apportioned to such State for such fiscal year under such section equal to the percentage utilization requirement established by paragraph (1) for such fiscal year.

(5) SECRETARIAL WAIVER.—The Secretary may set aside the provisions of this subsection for any 3-year period on a determination, made in concurrence with the Administrator of the Environmental Protection Agency with respect to subparagraphs (A) and (B) of this paragraph, that there is reliable evidence indicating—

(A) that manufacture, application, or use of asphalt pavement containing recycled rubber substantially increases the threat to human health or the environment as compared to the threats associated with conventional pavement;

(B) that asphalt pavement containing recycled rubber cannot be recycled to substantially the same degree as conventional pavement; or

(C) that asphalt pavement containing recycled rubber does not perform adequately as a material for the construction or surfacing of highways and roads.

The Secretary shall consider the results of the study under subsection (b)(1) in determining whether a 3-year set-aside is appropriate.

(6) RENEWAL OF WAIVER.—Any determination made to set aside the requirements of this section may be renewed for an additional 3-year period by the Secretary, with the concurrence of the Administrator with respect to the determinations made under paragraphs (5)(A) and (5)(B). Any determination made with respect to paragraph (5)(C) may be made for specific States or regions considering climate, geography, and other factors that may be unique to the State or region and that would prevent the adequate performance of asphalt pavement containing recycled rubber.

(7) INDIVIDUAL STATE REDUCTION.—The Secretary shall establish a minimum utilization requirement for asphalt pavement containing recycled rubber less than the minimum utilization requirement otherwise required by paragraph (1) in a particular State, upon the request of such State and if the Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, determines that there is not a sufficient quantity of scrap tires available in the State prior to disposal to meet the minimum utilization requirement established under paragraph (1) as the result of recycling and processing uses (in that State or another State), including retreading or energy recovery.

(e) DEFINITIONS.—For purpose of this section—

(1) the term "asphalt pavement containing recycled rubber" means any hot mix or spray applied binder in asphalt paving mixture that contains rubber from whole scrap tires which is used for asphalt pavement base, surface course or interlayer, or other road and highway related uses and—

(A) is a mixture of not less than 20 pounds of recycled rubber per ton of hot mix or 300 pounds of recycled rubber per ton of spray applied binder; or

(B) is any mixture of asphalt pavement and recycled rubber that is certified by a State and is approved by the Secretary, provided that the total amount of recycled rubber from whole scrap tires utilized in any year in such State shall be not less than the amount that would be utilized if all asphalt pavement containing recycled rubber laid in such State met the specifications of subparagraph (A) and subsection (d)(1); and

(2) the term "recycled rubber" is any crumb rubber derived from processing whole scrap tires or shredded tire material taken from automobiles, trucks, or other equipment owned and operated in the United States.

23 USC 144 note.

SEC. 1039. HIGHWAY TIMBER BRIDGE RESEARCH AND DEMONSTRATION PROGRAM.

(a) RESEARCH GRANTS.—The Secretary may make grants to other Federal agencies, universities, private businesses, nonprofit organizations, and any research or engineering entity to carry out research on 1 or more of the following:

(1) Development of new, economical highway timber bridge systems.

(2) Development of engineering design criteria for structural wood products for use in highway bridges in order to improve methods for characterizing lumber design properties.

(3) Preservative systems for use in highway timber bridges which demonstrate new alternatives and current treatment processes and procedures and which are environmentally sound with respect to application, use, and disposal of treated wood.

(4) Alternative transportation system timber structures which demonstrate the development of applications for railing, sign, and lighting supports, sound barriers, culverts, and retaining walls in highway applications.

(5) Rehabilitation measures which demonstrate effective, safe, and reliable methods for rehabilitating existing highway timber structures.

(b) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as may be necessary to ensure that the information and technology resulting from research conducted under subsection (a) is made available to State and local transportation departments and other interested persons.

(c) CONSTRUCTION GRANTS.—

(1) AUTHORITY.—The Secretary shall make grants to States for construction of highway timber bridges on rural Federal-aid highways.

(2) APPLICATIONS.—A State interested in receiving a grant under this subsection must submit an application therefor to the Secretary. Such application shall be in such form and contain such information as the Secretary may require by regulation.

(3) APPROVAL CRITERIA.—The Secretary shall select and approve applications for grants under this subsection based on the following criteria:

(A) Bridge designs which have both initial and long-term structural and environmental integrity.

(B) Bridge designs which utilize timber species native to the State or region.

(C) Innovative bridge designs which have the possibility of increasing knowledge, cost effectiveness, and future use of such designs.

(D) Environmental practices for preservative treated timber, and construction techniques which comply with all environmental regulations, will be utilized.

(d) FEDERAL SHARE.—The Federal share of the costs of research and construction projects carried out under this section shall be 80 percent.

(e) FUNDING.—From the funds reserved from apportionment under section 144(g)(1) of title 23, United States Code, for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997—

(1) $1,000,000 shall be available to the Secretary for carrying out subsections (a) and (b); and

(2) $7,500,000 ($7,000,000 in the case of fiscal year 1992) shall be available to the Secretary for carrying out subsection (c).

Such sums shall remain available until expended.

(f) STATE DEFINED.—For purposes of this section, the term "State" has the meaning such term has under section 101 of title 23, United States Code.

23 USC 101 note.

SEC. 1040. HIGHWAY USE TAX EVASION PROJECTS.

(a) IN GENERAL.—The Secretary shall use funds made available by subsection (e) to carry out highway use tax evasion projects in accordance with this section. Such funds may be allocated to the Internal Revenue Service and the States at the discretion of the Secretary. The Secretary shall not impose any condition on the use of funds allocated to the Internal Revenue Service under this section.

(b) LIMITATION ON USE OF FUNDS.—Funds made available to carry out this section shall be used only to expand efforts to enhance motor fuel tax enforcement, fund additional Internal Revenue Service staff but only to carry out functions described in this subsection, supplement motor fuel tax examinations and criminal investigations, develop automated data processing tools to monitor motor fuel production and sales, evaluate and implement registration and reporting requirements for motor fuel taxpayers, reimburse State expenses that supplement existing fuel tax compliance efforts, and analyze and implement programs to reduce tax evasion associated with other highway use taxes.

(c) MAINTENANCE OF EFFORT.—The Secretary may not make a grant to a State under this section in a fiscal year unless the State certifies that aggregate expenditure of funds of the State, exclusive of Federal funds, for motor fuel tax enforcement activities will be maintained at a level which does not fall below the average level of such expenditure for its last 2 fiscal years.

(d) REPORTS.—

(1) IN GENERAL.—On September 30 and March 31 of each year, the Secretary shall transmit to the Committee on Environment and Public Works and the Committee on Finance of the Senate and the Committee on Public Works and Transportation and the Committee on Ways and Means of the House of Representatives a report on motor fuel tax enforcement activities under this section and the expenditure of funds made available to carry out this section, including expenses for the hiring of additional staff by any Federal agency.

(2) USE OF REVENUES FOR ENFORCEMENT OF HIGHWAY TRUST FUND TAXES.—The Secretary of the Treasury shall, at least 60 days before the beginning of each fiscal year (after fiscal year 1992) for which funds are to be allocated to the Internal Revenue Service under this section, submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate detailing the increased enforcement activities to be financed with such funds with respect to taxes referred to in section 9503(b)(1) of the Internal Revenue Code of 1986.

(e) USE OF DYE AND MARKERS.—

(1) STUDY.—The Secretary, in consultation with the Internal Revenue Service, shall conduct a study to determine the feasibility and the desirability of using dye and markers to aid in motor fuel tax enforcement activities and other purposes.

(2) REPORT.—Not later than 1 year after the effective date of this section, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(f) FUNDING.—

(1) HIGHWAY TRUST FUND.—There shall be available to the Secretary for carrying out this section, out of the Highway

Trust Fund (other than the Mass Transit Account), $5,000,000 for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997. Such sums shall be available for obligation in the same manner and to the same extent as if such sums were apportioned under chapter 1 of title 23, United States Code; except that the Federal share for projects carried out under this section shall be 100 percent and the sums shall remain available until expended.

(2) GENERAL FUND.—There are authorized to be appropriated to carry out this section $2,500,000 per fiscal year for each of fiscal years 1992 through 1997. Such sums shall remain available until expended.

(g) STATE DEFINED.—For purposes of this section, the term "State" means the 50 States and the District of Columbia.

SEC. 1041. REGULATORY INTERPRETATIONS.

(a) INCLUSION OF COATING OF STEEL IN BUY AMERICA PROGRAM.—Section 635.410 of title 23 of the Code of Federal Regulations and any similar regulation, ruling, or decision shall be applied as if to include coating.

(b) FUNDING OF FUSEES AND FLARES.—Section 393.95 of title 49 of the Code of Federal Regulations shall be applied so that fusees and flares are given equal priority with regard to use as reflecting signs.

SEC. 1042. INDIAN RESERVATION ROADS STUDY. 23 USC 202 note.

(a) STUDY.—The Secretary shall conduct a study on the funding needs for Indian reservation roads taking into account funding and other quality inequities between Indian reservation roads and other highway systems.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study conducted under this section, together with any legislative and administrative recommendations of the Secretary for correcting inequities identified under such study.

SEC. 1043. REPORT TO CONGRESS ON QUALITY IMPROVEMENT. 23 USC 307 note.

(a) REPORT TO CONGRESS ON QUALITY IMPROVEMENT.—The Comptroller General shall submit within 24 months following the date of the enactment of this title a report to Congress addressing means for improving the quality of highways constructed with Federal assistance. This report shall address Federal design standards, engineering and design services, and construction of Federal-aid highway projects.

(b) SCOPE OF THE REPORT TO CONGRESS.—In preparing such report, the Comptroller shall address, at a minimum, the following:

(1) Alternative modifications to current Federal and State minimum design standards, including but not limited to, the anticipated impacts these alternatives would have on the serviceability, maintenance, expected life, and costs (including engineering and design, construction maintenance, operation and replacement costs).

(2) Inclusion of guarantee and warranty clauses in contracts with designers, contractors, and State highway departments to address, at a minimum, potential costs and benefits of such clauses; any liability or insurance constraints or concerns; implications for small, minority, or disadvantaged businesses; currently existing options for States to require these clauses or other means with similar effect without additional Federal

legislation, and the effect these or similar clauses may have on the availability of insurance and bonds for design professionals and contractors and the implication to the public of any change in such availability.

(3) Means of enhancing the maintenance of the Federal-aid Highway System to ensure the public investment in such system is protected.

23 USC 120 note.

SEC. 1044. CREDIT FOR NON-FEDERAL SHARE.

(a) ELIGIBILITY.—A State may use as a credit toward the non-Federal matching share requirement for all programs under this Act and title 23, United States Code, toll revenues that are generated and used by public, quasi-public and private agencies to build, improve, or maintain highways, bridges, or tunnels that serve the public purpose of interstate commerce. Such public, quasi-public or private agencies shall have built, improved, or maintained such facilities without Federal funds.

(b) MAINTENANCE OF EFFORT.—The credit for any non-Federal share shall not reduce nor replace State monies required to match Federal funds for any program pursuant to this Act or title 23, United States Code. In receiving a credit for non-Federal capital expenditures under this section, a State shall enter into such agreements as the Secretary may require to ensure that such State will maintain its non-Federal transportation capital expenditures at or above the average level of such expenditures for the preceding three fiscal years.

Contracts.

(c) TREATMENT.—Use of such credit for a non-Federal share shall not expose such agencies from which the credit is received to additional liability, additional regulation or additional administrative oversight. When credit is applied from chartered multi-State agencies, such credit shall be applied equally to all charter States. The public, quasi-public, and private agencies from which the credit for which the non-Federal share is calculated shall not be subject to any additional Federal design standards, laws or regulations as a result of providing non-Federal match other than those to which such agency is already subject.

Wisconsin.

SEC. 1045. SUBSTITUTE PROJECT.

(a) APPROVAL OF PROJECT.—Notwithstanding any other provision of law, upon the request of the Governor of the State of Wisconsin, submitted after consultation with appropriate local government officials, the Secretary may approve substitute highway, bus transit, and light rail transit projects, in lieu of construction of the I-94 East-West Transitway project in Milwaukee and Waukesha Counties, as identified in the 1991 Interstate Cost Estimate.

(b) ELIGIBILITY FOR FEDERAL ASSISTANCE.—Upon approval of any substitute highway or transit project or projects under subsection (a), the costs of construction of the eligible transitway project for which such project or projects are substituted shall not be eligible for funds authorized under section 108(b) of the Federal-Aid Highway Act of 1956 and a sum equal to the Federal share of such costs, as included in the latest interstate cost estimate submitted to Congress, shall be available to the Secretary to incur obligations under section 103(e)(4) of title 23, United States Code, for the Federal share of the costs of such substitute project or projects.

(c) LIMITATION ON ELIGIBILITY.—If, by October 1, 1993, or two years after the date of the enactment of this Act, whichever is later, the

Governor of the State of Wisconsin has not submitted a request for a substitute project or projects in lieu of the I-94 East-West Transitway, the Secretary shall not approve such substitution. If, by October 1, 1995, or four years after the date of the enactment of this Act, whichever is later, such substitute project or projects are not under construction, or under contract for construction, no funds shall be appropriated under the authority of section 103(e)(4) of title 23, United States Code, for such project or projects. For the purposes of this subsection, the term "construction" has the same meaning as given to it in section 101, title 23, United States Code, and shall include activities such as preliminary engineering and right-of-way acquisition.

(d) ADMINISTRATIVE PROVISIONS.—

(1) STATUS OF SUBSTITUTE PROJECT OR PROJECTS.—Any substitute project approved under subsection (a) shall be deemed to be a substitute project for the purposes of section 103(e)(4) of title 23, United States Code (other than subparagraphs (C) and (O)).

(2) REDUCTION OF UNOBLIGATED INTERSTATE APPORTIONMENT.—Unobligated apportionments for the Interstate System in the State of Wisconsin shall, on the date of approval of any substitute project or projects under subsection (a), be applied toward the Federal share of the costs of such substitute project or projects.

(3) ADMINISTRATION THROUGH FHWA.—The Secretary shall administer this section through the Federal Highway Administration.

(4) FISCAL YEARS 1993 AND 1994 APPORTIONMENTS.—For the purpose of apportioning funds for fiscal years 1993 and 1994 under section 104(b)(5)(A), the Secretary shall consider Wisconsin as having no remaining eligible costs. For the purpose of apportioning funds under section 104(b)(5)(A) of title 23, United States Code, for fiscal year 1995 and subsequent fiscal years, Wisconsin's actual remaining eligible costs shall be used.

(e) TRANSFER OF APPORTIONMENTS.—Wisconsin may transfer Interstate construction apportionments to its National Highway System in amounts equal to or less than the costs for additional work on sections of the Interstate System that have been built with Interstate construction funds and that are open to traffic as shown in the 1991 Interstate Cost Estimate.

SEC. 1046. CONTROL OF OUTDOOR ADVERTISING.

(a) FUNDING.—Section 131(m) of title 23, United States Code, is amended by adding at the end the following new sentence: "Subject to approval by the Secretary in accordance with the program of projects approval process of section 105, a State may use any funds apportioned to it under section 104 of this title for removal of any sign, display, or device lawfully erected which does not conform to this section.".

(b) REMOVAL OF ILLEGAL SIGNS.—Section 131 of such title is amended by adding at the end the following new subsection:

"(r) REMOVAL OF ILLEGAL SIGNS.—

"(1) BY OWNERS.—Any sign, display, or device along the Interstate System or the Federal-aid primary system which was not lawfully erected, shall be removed by the owner of such sign, display, or device not later than the 90th day following the effective date of this subsection.

"(2) BY STATES.—If any owner does not remove a sign, display, or device in accordance with paragraph (1), the State within the borders of which the sign, display, or device is located shall remove the sign, display, or device. The owner of the removed sign, display, or device shall be liable to the State for the costs of such removal. Effective control under this section includes compliance with the first sentence of this paragraph.".

(c) SCENIC BYWAY PROHIBITION.—Such section is further amended by adding at the end the following new subsections:

"(s) SCENIC BYWAY PROHIBITION.—If a State has a scenic byway program, the State may not allow the erection along any highway on the Interstate System or Federal-aid primary system which before, on, or after the effective date of this subsection, is designated as a scenic byway under such program of any sign, display, or device which is not in conformance with subsection (c) of this section. Control of any sign, display, or device on such a highway shall be in accordance with this section.

"(t) PRIMARY SYSTEM DEFINED.—For purposes of this section, the terms 'primary system' and 'Federal-aid primary system' mean 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.".

23 USC 131 note.

(d) STATE COMPLIANCE LAWS.—The amendments made by this section shall not affect the status or validity of any existing compliance law or regulation adopted by a State pursuant to section 131 of title 23, United States Code.

23 USC 101 note.

SEC. 1047. SCENIC BYWAYS PROGRAM.

(a) SCENIC BYWAYS ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish in the Department of Transportation an advisory committee to assist the Secretary with respect to establishment of a national scenic byways program under title 23, United States Code.

(2) MEMBERSHIP.—The advisory committee established under this section shall be composed of 17 members as follows:

(A) The Administrator of the Federal Highway Administration or the designee of the Administrator who shall serve as chairman of the advisory committee.

(B) The Chief of the Forest Service of the Department of Agriculture or the designee of the Chief.

(C) The Director of the National Park Service of the Department of the Interior or the designee of the Director.

(D) The Director of the Bureau of Land Management of the Department of the Interior or the designee of the Director.

(E) The Under Secretary for Travel and Tourism of the Department of Commerce or the designee of the Under Secretary.

(F) The Assistant Secretary for Indian Affairs of the Department of the Interior or the designee of the Assistant Secretary.

(G) 1 individual appointed by the Secretary who is specially qualified to represent the interests of conservationists on the advisory committee.

(H) 1 individual appointed by the Secretary of Transportation who is specially qualified to represent the interests

of recreational users of scenic byways on the advisory committee.

(I) 1 individual appointed by the Secretary who is specially qualified to represent the interests of the tourism industry on the advisory committee.

(J) 1 individual appointed by the Secretary who is specially qualified to represent the interests of historic preservationists on the advisory committee.

(K) 1 individual appointed by the Secretary who is specially qualified to represent the interests of highway users on the advisory committee.

(L) 1 individual appointed by the Secretary to represent State highway and transportation officials.

(M) 1 individual appointed by the Secretary to represent local highway and transportation officials.

(N) 1 individual appointed by the Secretary who is specially qualified to serve on the advisory committee as a planner.

(O) 1 individual appointed by the Secretary who is specially qualified to represent the motoring public.

(P) 1 individual appointed by the Secretary who is specially qualified to represent groups interested in scenic preservation.

(Q) 1 individual appointed by the Secretary who represents the outdoor advertising industry.

Individuals appointed as members of the advisory committee under subparagraphs (G) through (P) may be State and local government officials. Members shall serve without compensation other than for reasonable expenses incident to functions of the advisory committee.

(3) FUNCTIONS.—The advisory committee established under this subsection shall develop and make to the Secretary recommendations regarding minimum criteria for use by State and Federal agencies in designating highways as scenic byways and as all-American roads for purposes of a national scenic byways program to be established under title 23, United States Code. Such recommendations shall include recommendations on the following:

(A) Consideration of the scenic beauty and historic significance of highways proposed for designation as scenic byways and all-American roads and the areas surrounding such highways.

(B) Operation and management standards for highways designated as scenic byways and all-American roads, including strategies for maintaining or improving the qualities for which a highway is designated as a scenic byway or all-American road, for protecting and enhancing the landscape and view corridors surrounding such a highway, and for minimizing traffic congestion on such a highway.

(C)(i) Standards for scenic byway-related signs, including those which identify highways as scenic byways and all-American roads.

(ii) The advisability of uniform signs identifying highways as components of the scenic byway system.

(D) Standards for maintaining highway safety on the scenic byway system.

(E) Design review procedures for location of highway facilities, landscaping, and travelers' facilities on the scenic byway system.

(F) Procedures for reviewing and terminating the designation of a highway designated as a scenic byway.

(G) Such other matters as the advisory committee may deem appropriate.

(H) Such other matters for which the Secretary may request recommendations.

(4) REPORT.—Not later than 18 months after the date of the enactment of this Act, the advisory committee established under this section shall submit to the Secretary and Congress a report containing the recommendations described in paragraph (3).

(b) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary shall provide technical assistance to the States (as such term is defined under section 101 of title 23, United States Code) and shall make grants to the States for the planning, design, and development of State scenic byway programs.

(c) FEDERAL SHARE.—The Federal share payable for the costs of planning, design, and development of State scenic byway programs under this section shall be 80 percent.

(d) FUNDING.—There shall be available to the Secretary for carrying out this section (other than subsection (f)), out of the Highway Trust Fund (other than the Mass Transit Account), $1,000,000 for fiscal year 1992, $3,000,000 for fiscal year 1993, $4,000,000 for fiscal year 1994, and $14,000,000 for each of the fiscal years 1995, 1996, and 1997. Such sums shall remain available until expended.

(e) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a grant under this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of activities for which the grant is being made.

(f) INTERIM SCENIC BYWAYS PROGRAM.—

(1) GRANT PROGRAM.—During fiscal years 1992, 1993, and 1994, the Secretary may make grants to any State which has a scenic highway program for carrying out eligible projects on highways which the State has designated as scenic byways.

(2) PRIORITY PROJECTS.—In making grants under paragraph (1), the Secretary shall give priority to—

(A) those eligible projects which are included in a corridor management plan for maintaining scenic, historic, recreational, cultural, and archeological characteristics of the corridor while providing for accommodation of increased tourism and development of related amenities;

(B) those eligible projects for which a strong local commitment is demonstrated for implementing the management plans and protecting the characteristics for which the highway is likely to be designated as a scenic byway;

(C) those eligible projects which are included in programs which can serve as models for other States to follow when establishing and designing scenic byways on an intrastate or interstate basis; and

(D) those eligible projects in multi-State corridors where the States submit joint applications.

(3) ELIGIBLE PROJECTS.—The following are projects which are eligible for Federal assistance under this subsection:

(A) Planning, design, and development of State scenic byway programs.

(B) Making safety improvements to a highway designated as a scenic byway under this subsection to the extent such improvements are necessary to accommodate increased traffic, and changes in the types of vehicles using the highway, due to such designation.

(C) Construction along the highway of facilities for the use of pedestrians and bicyclists, rest areas, turnouts, highway shoulder improvements, passing lanes, overlooks, and interpretive facilities.

(D) Improvements to the highway which will enhance access to an area for the purpose of recreation, including water-related recreation.

(E) Protecting historical and cultural resources in areas adjacent to the highway.

(F) Developing and providing tourist information to the public, including interpretive information about the scenic byway.

(4) FEDERAL SHARE.—The Federal share payable for the costs of carrying out projects and developing programs under this subsection with funds made available pursuant to this subsection shall be 80 percent.

(5) FUNDING.—There shall be available to the Secretary for carrying out this subsection, out of the Highway Trust Fund (other than the Mass Transit Account), $10,000,000 for fiscal year 1992, $10,000,000 for fiscal year 1993, and $10,000,000 for fiscal year 1994. Such sums shall remain available until expended.

(g) LIMITATION.—The Secretary shall not make a grant under this section for any project which would not protect the scenic, historic, recreational, cultural, natural, and archeological integrity of the highway and adjacent area. The Secretary may not use more than 10 percent of the funds authorized for each fiscal year under subsection (f)(5) for removal of any outdoor advertising sign, display, or device.

(h) TREATMENT OF SCENIC HIGHWAYS IN OREGON.—For purposes of this section, a highway designated as a scenic highway in the State of Oregon shall be treated as a scenic byway.

SEC. 1048. BUY AMERICA.

(a) INCLUSION OF IRON.—Section 165(a) of the Surface Transportation Assistance Act of 1982 (23 U.S.C. 101 note) is amended by inserting ", iron," after "steel".

(b) WAIVERS; INTENTIONAL VIOLATIONS.—Section 165 of such Act is amended by adding at the end the following new subsections: 23 USC 101 note.

"(e) REPORT ON WAIVERS.—By January 1, 1995, the Secretary shall submit to Congress a report on the purchases from foreign entities waived under subsection (b) in fiscal years 1992 and 1993, indicating the dollar value of items for which waivers were granted under subsection (b).

"(f) INTENTIONAL VIOLATIONS.—If it has been determined by a court or Federal agency that any person intentionally— Contracts.

"(1) affixed a label bearing a 'Made in America' inscription, or any inscription with the same meaning, to any product used in projects to which this section applies, sold in or shipped to the United States that was not made in the United States; or

"(2) represented that any product used in projects to which this section applies, sold in or shipped to the United States that was not produced in the United States, was produced in the United States;

that person shall be ineligible to receive any contract or subcontract made with funds authorized under the Intermodal Surface Transportation Efficiency Act of 1991 pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

"(g) LIMITATION ON APPLICABILITY OF WAIVERS TO PRODUCTS PRODUCED IN CERTAIN FOREIGN COUNTRIES.—If the Secretary, in consultation with the United States Trade Representative, determines that—

"(1) a foreign country is a party to an agreement with the United States and pursuant to that agreement the head of an agency of the United States has waived the requirements of this section, and

"(2) the foreign country has violated the terms of the agreement by discriminating against products covered by this section that are produced in the United States and are covered by the agreement,

the provisions of subsection (b) shall not apply to products produced in that foreign country.".

23 USC 109 note.

SEC. 1049. DESIGN STANDARDS.

(a) SURVEY.—The Secretary shall conduct a survey to identify current State standards relating to geometric design, traffic control devices, roadside safety, safety appurtenance design, uniform traffic control devices, and sign legibility and directional clarity for all Federal-aid highways. The purpose of the survey is to determine the necessity of upgrading such standards in order to enhance highway safety. In conducting the survey, the Secretary shall take into consideration posted speed limits as they relate to the design of the highway.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the survey conducted under this section, and on the crashworthiness of traffic lights, traffic signs, guardrails, impact attenuators, concrete barrier treatments, and breakaway utility poles for bridges and roadways currently used by States, together with any recommendations of the Secretary relating to the purpose of the survey.

23 USC 138 note.

SEC. 1050. TRANSPORTATION IN PARKLANDS.

(a) IN GENERAL.—Not later than 12 months after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of the Interior, shall conduct and transmit to Congress a study of alternative transportation modes for use in the National Park System. In conducting such study, the Secretary shall consider (1) the economic and technical feasibility, environmental effects, projected costs and benefits as compared to the costs and benefits of existing transportation systems, and general suitability of transportation modes that would provide efficient and environmentally sound ingress to and egress from National Park lands; and (2)

methods to obtain private capital for the construction of such transportation modes and related infrastructure.

(b) FUNDING.—From sums authorized to be appropriated for park roads and parkways for fiscal year 1992, $300,000 shall be available to carry out this section.

SEC. 1051. WORK ZONE SAFETY. 23 USC 401 note.

The Secretary shall develop and implement a work zone safety program which will improve work zone safety at highway construction sites by enhancing the quality and effectiveness of traffic control devices, safety appurtenances, traffic control plans, and bidding practices for traffic control devices and services.

SEC. 1052. NEW HAMPSHIRE FEDERAL-AID PAYBACK.

(a) EFFECT OF REPAYMENT.—The amount of all Federal-aid highway funds paid on account of those completed sections of the Nashua-Hudson Circumferential in the State of New Hampshire referred to in subsection (c) of this section shall, prior to the collection of any tolls thereon, be repaid to the Treasurer of the United States before October 1, 1992. The amount so repaid shall be deposited to the credit of the appropriation for "Federal-Aid Highway (Trust Fund)". Such repayment shall be credited to the unprogrammed balance of funds apportioned to the State of New Hampshire in accordance with section 104(b)(1) of title 23, United States Code. The amount so credited shall be in addition to all other funds then apportioned to such State and shall remain available until expended.

(b) USE OF REPAID FUNDS.—Upon repayment of Federal-aid highway funds and the cancellation and withdrawal from the Federal-Aid Highway Program of the projects on the section in subsection (c) as provided in subsection (a) of this section, such section of this route shall become and be free of any and all restrictions contained in title 23, United States Code, as amended or supplemented, or in any regulation thereunder, with respect to the imposition and collection of tolls or other charges thereon or for the use thereof.

(c) PROJECT DESCRIPTION.—The provisions of this section shall apply to the section of the completed Nashua-Hudson Circumferential between the Daniel Webster Highway in the city of Nashua and New Hampshire Route 3A in the town of Hudson.

SEC. 1053. METRIC SYSTEM SIGNING.

Section 144 of the Federal-Aid Highway Act of 1978 (92 Stat. 2713; 23 U.S.C. 109 note) is repealed.

SEC. 1054. TEMPORARY MATCHING FUND WAIVER. 23 USC 120 note.

(a) WAIVER OF MATCHING SHARE.—Notwithstanding any other provision of law, the Federal share of any qualifying project approved by the Secretary under title 23, United States Code, and of any qualifying project for which the United States becomes obligated to pay under title 23, United States Code, during the period beginning on October 1, 1991, and ending September 30, 1993, shall be the percentage of the construction cost as the State requests, up to and including 100 percent.

(b) REPAYMENT.—The total amount of increases in the Federal share made pursuant to subsection (a) for any State shall be repaid to the United States by the State on or before March 30, 1994. Payments shall be deposited in the Highway Trust Fund and repaid

amounts shall be credited to the appropriate apportionment accounts of the State.

(c) DEDUCTION FROM APPORTIONMENTS.—If a State has not made the repayment as required by subsection (b), the Secretary shall deduct from funds apportioned to the State under title 23, United States Code, in each of the fiscal years 1995 and 1996, a pro rata share of each category of apportioned funds. The amount which shall be deducted in each fiscal year shall be equal to 50 percent of the amount needed for repayment. Any amount deducted under this subsection shall be reapportioned for fiscal years 1995 and 1996 in accordance with title 23, United States Code, to those States which have not received a higher Federal share under this section and to those States which have made the repayment required by subsection (b).

(d) QUALIFYING PROJECT DEFINED.—For purposes of this section, the term "qualifying project" means a project approved by the Secretary after the effective date of this title, or a project for which the United States becomes obligated to pay after such effective date, and for which the Governor of the State submitting the project has certified, in accordance with regulations established by the Secretary, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

SEC. 1055. RELOCATION ASSISTANCE REGULATIONS RELATING TO THE RURAL ELECTRIFICATION ADMINISTRATION.

Section 213(c) of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4633(c)) is amended by inserting "and the Rural Electrification Administration" after "Tennessee Valley Authority".

SEC. 1056. USE OF HIGH OCCUPANCY VEHICLE LANES BY MOTORBIKES.

Section 163 of the Surface Transportation Assistance Act of 1982 (23 U.S.C. 146 note) is amended—

(1) by inserting before "and acceptance" the following: ", after notice in the Federal Register and an opportunity for public comment,"; and

Federal Register, publication.

(2) by adding at the end the following: "Any certification made before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991 shall not be recognized by the Secretary until the Secretary publishes notice of such certification in the Federal Register and provides an opportunity for public comment on such certification.".

23 USC 109 note.

SEC. 1057. EROSION CONTROL GUIDELINES.

(a) DEVELOPMENT.—The Secretary shall develop erosion control guidelines for States to follow in carrying out construction projects funded in whole or in part under this title.

(b) MORE STRINGENT STATE REQUIREMENTS.—Guidelines developed under subsection (a) shall not preempt any requirement made by or under State law if such requirement is more stringent than the guidelines.

(c) CONSISTENCY WITH OTHER PROGRAMS.—Guidelines developed under subsection (a) shall be consistent with nonpoint source management programs under section 319 of the Federal Water Pollution Control Act and coastal nonpoint pollution control guidance under section 6217(g) of the Omnibus Budget Reconciliation Act of 1990.

SEC. 1058. ROADSIDE BARRIER TECHNOLOGY. 23 USC 109 note.

(a) REQUIREMENT FOR INNOVATIVE BARRIERS.—Not less than 2½ percent of the mileage of new or replacement permanent median barriers included in awarded contracts along Federal-aid highways within the boundaries of a State in each calendar year shall be innovative safety barriers.

(b) CERTIFICATION.—Each State shall annually certify to the Secretary its compliance with the requirements of this section.

(c) DEFINITION OF INNOVATIVE SAFETY BARRIER.—For purposes of this section, the term "innovative safety barrier" means a median barrier, other than a guardrail, classified by the Federal Highway Administration as "experimental" or that was classified as "operational" after January 1, 1985.

SEC. 1059. USE OF TOURIST ORIENTED DIRECTIONAL SIGNS. 23 USC 131 note.

(a) IN GENERAL.—The Secretary shall encourage the States to provide for equitable participation in the use of tourist oriented directional signs or "logo" signs along the Interstate System and the Federal-aid primary system (as defined under section 131(t) of title 23, United States Code).

(b) STUDY.—Not later than 1 year after the effective date of this title, the Secretary shall conduct a study and report to Congress on the participation in the use of signs referred to in subsection (a) and the practices of the States with respect to the use of such signs. Reports.

SEC. 1060. PRIVATE SECTOR INVOLVEMENT PROGRAM. 23 USC 112 note.

(a) ESTABLISHMENT.—The Secretary shall establish a private sector involvement program to encourage States to contract with private firms for engineering and design services in carrying out Federal-aid highway projects when it would be cost effective.

(b) GRANTS TO STATES.—

(1) IN GENERAL.—In conducting the program under this section, the Secretary may make grants in each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 to not less than 3 States which the Secretary determines have implemented in the fiscal year preceding the fiscal year of the grant the most effective programs for increasing the percentage of funds expended for contracting with private firms (including small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals) for engineering and design services in carrying out Federal-aid highway projects.

(2) USE OF GRANTS.—A grant received by a State under this subsection may be used by the State only for awarding contracts for engineering and design services to carry out projects and activities for which Federal funds may be obligated under title 23, United States Code.

(3) FUNDING.—There are authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 1992 through 1997. Such sums shall remain available until expended.

(c) REPORT BY FHWA.—Not later than 120 days after the date of the enactment of this Act, the Administrator of the Federal Highway Administration shall submit to the Secretary a report on the amount of funds expended by each State in fiscal years 1980 through 1990 on contracts with private sector engineering and design firms in carrying out Federal-aid highway projects. The Secretary shall use information in the report to evaluate State engineering and

design programs for the purpose of awarding grants under subsection (b).

(d) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on implementation of the program established under this section.

(e) ENGINEERING AND DESIGN SERVICES DEFINED.—The term "engineering and design services" means any category of service described in section 112(b) of title 23, United States Code.

(f) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall issue regulations to carry out this section.

SEC. 1061. UNIFORM TRAFFIC CONTROL DEVICES.

Arkansas.

(a) HIGHWAY PROJECT.—The Secretary shall carry out a highway project in the State of Arkansas to demonstrate the benefits of providing training to county and town traffic officials in the need for and application of uniform traffic control devices and to demonstrate the safety benefits of providing for adequate and safe warning and regulatory signs.

(b) AUTHORIZATION OF APPROPRIATIONS FROM HIGHWAY TRUST FUNDS.—There is authorized to be appropriated out of the Highway Trust Fund, other than the Mass Transit Account, for fiscal year 1992 to carry out this section—

(1) $200,000 for providing training; and

(2) $1,000,000 for providing warning and regulatory signs to counties, towns and cities.

Amounts provided under paragraph (2) shall be divided equally between counties with a total county population of 20,000 or less and counties with a total county population of more than 20,000. Such amounts shall be distributed fairly and equitably among counties, cities, and towns within those counties.

(c) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of the project under this section shall be 80 percent and such funds shall remain available until expended. Funds made available under this section shall not be subject to any obligation limitation.

(d) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit a report to Congress on the effectiveness of the project carried out under this section.

SEC. 1062. MOLLY ANN'S BROOK, NEW JERSEY.

The Secretary shall carry out a project to make modifications to bridges necessary for the Secretary of the Army to carry out a project for flood control, Molly Ann's Brook, New Jersey, authorized by section 401 of the Water Resources Development Act of 1986 (100 Stat. 4119). Any Federal expenditures under this part for such project shall be treated as part of the non-Federal share of the cost of such flood control project.

SEC. 1063. PRESIDENTIAL HIGHWAY, FULTON COUNTY, GEORGIA.

CAUTION, Inc.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the Secretary shall approve the construction of the Department of Transportation project MEACU-9152(2) in Fulton County, Georgia, as described in the legal settlement agreed to for the project by the

Georgia Department of Transportation, the city of Atlanta, and CAUTION, Inc. Execution of the settlement agreement by those parties and approval of the settlement agreement by the DeKalb County, Georgia Superior Court shall be deemed to constitute full compliance with all Federal laws applicable to carrying out the project.

(b) LIMITATIONS ON FEDERAL FUNDING.—With the exception of Federal funds expended for construction of the project described in subsection (a) and with the exception of Federal funds appropriated or authorized for the acquisition, creation, or development of parks or battlefield sites, no further Federal funds, including funds from the Highway Trust Fund and funds appropriated for the Federal-aid highway systems, shall be authorized, appropriated, or expended for expanding the capacity of the project described in subsection (a) or for new construction of a Federal-aid highway in any portion of rights-of-way previously acquired for Department of Transportation project MEACU-9152(2) which is not used for construction of such project as described in subsection (a) and in any portion of the rights-of-way previously acquired for Georgia project I-485-1(46) in Fulton County, Georgia; Georgia project U-061-1(14) in Fulton and DeKalb Counties, Georgia; and Georgia project F-056-1(12) in Fulton County, Georgia.

(c) LIMITATION ON EFFECT.—In the event that the settlement agreement referred to in subsection (a) is not executed by the parties or approved by the DeKalb County, Georgia Superior Court in Case No. 88-6429-3, this section shall have no force or effect.

SEC. 1064. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES. 23 USC 129 note.

(a) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c) of title 23, United States Code.

(b) FEDERAL SHARE.—The Federal share payable for construction of ferry boats and ferry terminal facilities under this section shall be 80 percent of the cost thereof.

(c) FUNDING.—There shall be available, out of the Highway Trust Fund (other than the Mass Transit Account), to the Secretary for obligation at the discretion of the Secretary $14,000,000 for fiscal year 1992, $17,000,000 per fiscal year for each of fiscal years 1993, 1994, 1995, and 1996, and $18,000,000 for fiscal year 1997 in carrying out this section. Such sums shall remain available until expended.

(d) APPLICABILITY OF TITLE 23.—All provisions of chapter 1 of title 23, United States Code, that are applicable to the National Highway System, other than provisions relating to apportionment formula and Federal share, shall apply to funds made available to carry out this section, except as determined by the Secretary to be inconsistent with this section.

(e) TREATMENT OF CERTAIN ROADS.—For purposes of this section, North Carolina State Routes 12, 45, 306, 615, and 168 and United States Route 421 in the State of North Carolina shall be treated as principal arterials. North Carolina.

SEC. 1065. ORANGE COUNTY TOLL PILOT PROJECTS. California.

(a) EXEMPTION OF CERTAIN LANDS.—For the purposes of any approval by the Secretary of proposed highway improvements authorized by section 129(d)(3) of title 23, United States Code, in Orange County, California, pursuant to section 303 of title 49,

United States Code, and section 138 of title 23, United States Code, those sections (collectively known as "section 4(f)") shall not be applicable to public park, recreation area, wildlife and waterfowl refuge (collectively referred to hereinafter in this section as "parkland")—

(1) that are acquired by a public entity after a governmental agency's approval of a State or Federal environmental document established the location of a highway adjacent to the parklands; or

(2) where the planning or acquisition documents for the parklands specifically referred to or reserved the specific location of the highway.

(b) APPLICABILITY.—Without limiting its prospective application, this section shall apply to any approval of the proposed highway improvements by the Secretary prior to the effective date of this section only if—

(1) the approximately 360 acres comprising the proposed Upper Peters Canyon Regional Park in Orange County, California, is conveyed to a public agency for use as public park and recreation land or a wildlife or waterfowl refuge, or both, within 90 days of such effective date;

(2) the approximately 100 acres of lands described as the Dedication Area in that certain Option Agreement dated April 16, 1991, by and between the city of Laguna Beach and the owner thereof is conveyed to a public agency for use as public park and recreation land for a wildlife or waterfowl refuge, or both, within 90 days of such effective date.

(c) PURPOSE.—This section is adopted in recognition of unique circumstances in Orange County, California, including a comprehensive land use planning process; the joint planning of thousands of acres of parklands with the locations of the proposed highway improvement; the provision of rights-of-way for high occupancy vehicle lanes and fixed rail transit in the 3 transportation corridors; the use of toll financing, which will discourage excessive automobile travel; and the inclusion of a county-wide growth management element and substantial local transit funding commitment in the county's voter-approved supplemental sales tax for transportation.

(d) LIMITATIONS ON STATUTORY CONSTRUCTION.—In no event shall this section be construed to apply to any other highway projects other than the proposed San Joaquin Hills, Foothill, and Eastern Transportation Corridor highways in Orange County, California. Nothing in this section is intended to waive any provision of law (including the National Environmental Policy Act, the Endangered Species Act, and the National Historic Preservation Act) other than the specific exemptions to section 303 of title 49 and section 138 of title 23, United States Code. Nothing in this section shall be construed to give effect to or approve regulations issued pursuant to section 4(f) and published in the Federal Register on April 1, 1991 (56 Federal Register 62).

23 USC note prec. 101.

SEC. 1066. RECODIFICATION.

The Secretary shall, by October 1, 1993, prepare a proposed recodification of title 23, United States Code, and related laws and submit the proposed recodification to Congress for consideration.

SEC. 1067. PRIOR DEMONSTRATION PROJECTS.

(a) TAMPA, FLORIDA.—The unobligated balance of funds provided under section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 for carrying out subsection (a)(81) of such section shall be available to the Secretary for carrying out a highway project to widen, modernize, and make safety improvements to interstate route I-4 in Hillsborough County, Florida, from its intersection with I-275 in Tampa, Florida, to the Hillsborough-Polk County line.

(b) SANTA FE, NEW MEXICO.—The unobligated balance of funds provided under section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 for carrying out subsection (a)(107) of such section shall be available to the Secretary for carrying out a highway project to construct a bypass for Santa Fe, New Mexico.

(c) LARKSPUR TO KORBEL, CALIFORNIA.—The unobligated balance of funds provided under section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 for carrying out subsection (a)(41)(B) of such section shall be available to the Secretary for carrying out a highway project to construct a transportation corridor along a right-of-way which is parallel to Route 101 in California and connects Larkspur, California, and Korbel, California.

(d) PASSAIC AND BERGEN COUNTIES, NEW JERSEY.—The highway project authorized by section 149(a)(1) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 181), shall include improvements to New Jersey State Route 21, the Crooks Avenue interchange between United States Route 46 and New Jersey State Route 20, and the United States Route 46 bridge over the Passaic River between Clifton and Elmwood Park, New Jersey. Notwithstanding any other provision of law, the Governor of the State of New Jersey shall carry out with respect to the construction of such highway project all of the responsibilities of the Secretary under title 23, United States Code, and all other provisions of law. To provide for expedited completion of the project, the Governor is authorized to waive any and all Federal requirements relating to the scheduling of activities associated with such highway project, including final design and right-of-way acquisition activities.

SEC. 1068. STORMWATER PERMIT REQUIREMENTS.

33 USC 1342 note.

(a) GENERAL RULE.—Notwithstanding the requirements of sections 402(p)(2) (B), (C), and (D) of the Federal Water Pollution Control Act, permit application deadlines for stormwater discharges associated with industrial activities from facilities that are owned or operated by a municipality shall be established by the Administrator of the Environmental Protection Agency (hereinafter in this section referred to as the "Administrator") pursuant to the requirements of this section.

(b) PERMIT APPLICATIONS.—

(1) INDIVIDUAL APPLICATIONS.—The Administrator shall require individual permit applications for discharges described in subsection (a) on or before October 1, 1992; except that any municipality that has participated in a timely part I group application for an industrial activity discharging stormwater that is denied such participation in a group application or for which a group application is denied shall not be required to submit an individual application until the 180th day following the date on which the denial is made.

(2) GROUP APPLICATIONS.—With respect to group applications for permits for discharges described in subsection (a), the Administrator shall require—

(A) part I applications on or before September 30, 1991, except that any municipality with a population of less than 250,000 shall not be required to submit a part I application before May 18, 1992; and

(B) part II applications on or before October 1, 1992, except that any municipality with a population of less than 250,000 shall not be required to submit a part II application before May 17, 1993.

(c) MUNICIPALITIES WITH LESS THAN 100,000 POPULATION.—The Administrator shall not require any municipality with a population of less than 100,000 to apply for or obtain a permit for any stormwater discharge associated with an industrial activity other than an airport, powerplant, or uncontrolled sanitary landfill owned or operated by such municipality before October 1, 1992, unless such permit is required by section 402(p)(2) (A) or (E) of the Federal Water Pollution Control Act.

(d) UNCONTROLLED SANITARY LANDFILL DEFINED.—For the purposes of this section, the term "uncontrolled sanitary landfill" means a landfill or open dump, whether in operation or closed, that does not meet the requirements for run-on and run-off controls established pursuant to subtitle D of the Solid Waste Disposal Act.

(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect any application or permit requirement, including any deadline, to apply for or obtain a permit for stormwater discharges subject to section 402(p)(2) (A) or (E) of the Federal Water Pollution Control Act.

(f) REGULATIONS.—The Administrator shall issue final regulations with respect to general permits for stormwater discharges associated with industrial activity on or before February 1, 1992.

SEC. 1069. MISCELLANEOUS HIGHWAY PROJECT AUTHORIZATIONS.

(a) BALTIMORE-WASHINGTON PARKWAY.—There is authorized to be appropriated $74,000,000 for renovation and reconstruction of the Baltimore-Washington Parkway in Prince Georges County, Maryland. The Federal share of the cost of such project shall be 100 percent.

(b) EXIT 26 BRIDGE.—There is authorized to be appropriated $22,400,000 for construction of the Exit 26 Bridge in Schenectady County, New York. The Federal share of the cost of such project shall be 80 percent.

(c) CUMBERLAND GAP TUNNEL.—There are authorized to be appropriated such sums as may be necessary to complete construction of the Cumberland Gap Tunnel, Kentucky, including associated approaches and other necessary road work. The Federal share of the cost of such project shall be 100 percent.

(d) RIVERSIDE EXPRESSWAY.—There is authorized to be appropriated $53,400,000 for construction of the Riverside Expressway, including bridges crossing the Monongahela River and Buffalo Creek, in the vicinity of Fairmont, West Virginia. The Federal share of the cost of such project shall be 80 percent.

(e) BUSWAY.—There is authorized to be appropriated $39,500,000 for design and construction of an exclusive busway linking Pittsburgh and Pittsburgh Airport. The Federal share of such project shall be 80 percent.

(f) EXTON BYPASS.—There is authorized to be appropriated $11,004,000 for construction of the Exton Bypass, in Exton, Pennsylvania. The Federal share of such project shall be 80 percent.

(g) PENNSYLVANIA ROUTE 33 EXTENSION.—There is authorized to be appropriated $5,400,000 for extension of Route 33 in Northampton County, Pennsylvania. The Federal share of such project shall be 80 percent.

(h) U.S. ROUTE 202.—There is authorized to be appropriated $4,500,000 for construction of U.S. Route 202. The Federal share of such project shall be 80 percent.

(i) WOODROW WILSON BRIDGE.—There is authorized to be appropriated $15,000,000 for rehabilitation of the Woodrow Wilson Bridge. The Federal share of such project shall be 100 percent.

(j) WARREN OUTERBELT IMPROVEMENT, WARREN, OHIO.—There is authorized to be appropriated $1,000,000 for design and construction of Warren Outerbelt improvements, Warren, Ohio. The Federal share of such project shall be 80 percent.

(k) OHIO STATE ROUTE 46 IMPROVEMENTS.—There is authorized to be appropriated $2,000,000 for design and construction of Ohio State Route 46 improvements. The Federal share of such project shall be 80 percent.

(l) OHIO STATE ROUTE 5 IMPROVEMENTS.—There is authorized to be appropriated $1,000,000 for design and construction of Ohio State Route 5 improvements. The Federal share of such project shall be 80 percent.

(m) U.S. ROUTE 62 IMPROVEMENTS, OHIO.—There is authorized to be appropriated $1,000,000 for design and construction of U.S. Route 62 improvements, Ohio. The Federal share of such project shall be 80 percent.

(n) OHIO STATE ROUTE 534 IMPROVEMENTS.—There is authorized to be appropriated $1,000,000 for design and construction of Ohio State Route 534 improvements. The Federal share of such project shall be 80 percent.

(o) OHIO STATE ROUTE 45 IMPROVEMENTS.—There is authorized to be appropriated $1,000,000 for design and construction of Ohio State Route 45 improvements. The Federal share of such project shall be 80 percent.

(p) ROUTE 120, LOCK HAVEN, PENNSYLVANIA.—There is authorized to be appropriated $4,000,000 for the widening of Route 120 and the removal of unstable rockfill area, Lock Haven, Pennsylvania. The Federal share of such project shall be 80 percent.

(q) TRUSS BRIDGE, TIOGA RIVER, LAWRENCEVILLE, PENNSYLVANIA.—There is authorized to be appropriated $3,200,000 to replace the existing Truss Bridge across the Tioga River, in Lawrenceville, Pennsylvania. The Federal share of such project shall be 80 percent.

(r) U.S. ROUTE 6, BRADFORD COUNTY, PENNSYLVANIA.—There is authorized to be appropriated $3,000,000 for the widening of U.S. Route 6 (Wysox Narrows Road), in Bradford County, Pennsylvania. The Federal share of such project shall be 80 percent.

(s) SEBRING/MANSFIELD BYPASS, PENNSYLVANIA.—There is authorized to be appropriated $4,800,000 for design and construction of the Sebring/Mansfield Bypass on U.S. 15, Pennsylvania. The Federal share of such project shall be 80 percent.

(t) I-5 IMPROVEMENTS.—The States of Oregon and Washington should give priority consideration to improvements on the I-5 Corridor. The Secretary shall give priority consideration to funding I-5 improvements in Oregon and Washington from section 118(c)(2) of

title 23, United States Code, as amended by this Act. The Secretary shall give the highest priority to those Oregon projects identified in the State's transportation improvement plan.

(u) ROUTE 219.—The Secretary shall designate Route 219 from the Maryland line to Buffalo, New York, as part of the National Highway System.

(v) COALFIELDS EXPRESSWAY.—There is authorized to be appropriated such sums as may be necessary for design and construction of the project known as "Coalfields Expressway" from Beckley, West Virginia, to the West Virginia-Virginia State line, generally following the corridor defined by, but not necessarily limited to, Routes 54, 97, 10, 16, and 93. The Federal share of such project shall be 80 percent.

(w) UNITED STATES ROUTE 119.—There is authorized to be appropriated $70,000,000 for upgrading United States Route 119 to 4 lanes beginning west of Huddy, Kentucky. The Federal share of such project shall be 80 percent.

(x) CHAMBERSBURG, PENNSYLVANIA.—Not later than 30 days after the date of the enactment of this Act, in Chambersburg, Pennsylvania, at both the intersection of Lincoln Way and Sixth Street and the intersection of Lincoln Way and Coldbrook Avenue, the Pennsylvania Department of Transportation shall include an exclusive pedestrian phase in the existing lighting sequence between the hours of 8:00 and 8:30 a.m. and between the hours of 2:45 and 3:45 p.m. on weekdays.

(y) CONSTRUCTION OF AND IMPROVEMENTS TO THE APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.—There is authorized to be appropriated such sums as may be necessary for projects involving construction of, and improvements to, corridors of the Appalachian Development Highway System.

(z) UNITED STATES ROUTE 52 IN WEST VIRGINIA.—(1) There is authorized to be appropriated such sums as may be necessary for projects for the construction, renovation, and reconstruction of United States Route 52 in West Virginia.

(2) The Federal share payable on account of any such project shall be 80 percent of the cost thereof.

(aa) ROUTE 219, NEW YORK.—(1) For the purpose of projects to improve and upgrade Route 219 in New York, from Springeville to the Pennsylvania border Route 219 shall be considered as eligible for funding under the Appalachian Development Highway System.

(2) For purposes of paragraph (1) there is authorized to be appropriated such sums as may be necessary. The Federal share payable on account of such project shall be 80 percent of the cost thereof.

(bb) ROUTES 5 AND 92 CONGESTION MANAGEMENT PROJECT.—There is authorized to be appropriated $20,000,000 to carry out a project to relieve congestion in the vicinity of the intersection of routes 5 and 92 in the Towns of Manlius, New York, and Dewitt, New York.

(cc) ROCHESTER ADVANCED TRAFFIC MANAGEMENT SYSTEM.—There is authorized to be appropriated $15,000,000 to implement an integrated advanced traffic management/advanced driver information system in the city of Rochester, New York.

(dd) RENSSELAER ACCESS PROJECT.—There is authorized to be appropriated $35,000,000 to construct a new interchange (Exit 8) on Interstate Route 90, which includes an access-controlled roadway, in Rensselaer County, New York.

(ee) GOWANUS EXPRESSWAY CORRIDOR IMPROVEMENTS.—There is authorized to be appropriated $200,000,000 to carry out improvements to the Gowanus Expressway Corridor in Brooklyn, New York.

(ff) I-287 CROSS WESTCHESTER EXPRESSWAY HIGH OCCUPANCY VEHICLE LANE PROJECT.—There is authorized to be appropriated $200,000,000 to construct High Occupancy Vehicle Lanes on the Cross Westchester Expressway in Westchester County, New York.

(gg) OAK POINT LINK FREIGHT ACCESS PROJECT.—There is authorized to be appropriated $150,000,000 to complete the construction of the Oak Point Link in the Harlem River in New York City, New York.

(hh) OPERATIONAL IMPROVEMENTS, FRANKLIN DELANO ROOSEVELT DRIVE.—There is authorized to be appropriated $50,000,000 to carry out operational and safety improvements to the Franklin Delano Roosevelt Drive in New York City, New York.

SEC. 1070. MODIFICATIONS OF NIAGARA FALLS BRIDGE COMMISSION CHARTER.

(a) PAYMENT OF COSTS.—

(1) IN GENERAL.—Section 4 of the joint resolution entitled "Joint resolution creating the Niagara Falls Bridge Commission and authorizing said Commission and its successors to construct, maintain, and operate a bridge across the Niagara River at or near the city of Niagara Falls, New York", approved June 16, 1938, as amended (hereinafter in this section referred to as the "Joint Resolution"), is amended to read as follows: 52 Stat. 768.

"SEC. 4. The Commission is authorized to issue its obligations to provide funds for the acquisition or construction of bridges (provided the same is authorized by Act or Joint Resolution of Congress of the United States), and the repair, renovation and expansion of the same, working capital and other expenditures and deposits convenient to carrying out the Commission's purposes. The terms of the obligations shall be determined by resolution of the Commission (subject to such agreements with bondholders as may then exist), including provisions regarding rates of interest (either fixed or variable), contracts for credit support, risk management, liquidity or other financial arrangements, security or provision for payment of the obligations and such contracts (including the general obligation of the Commission and the pledge of all or any particular revenues or proceeds of obligations of the Commission). The obligations shall be sold at public or private sale at such prices above or below par as the Commission shall determine. As used herein 'bridges' includes approaches thereto, land, easements and functionally related appurtenances.".

(2) EXISTING CONTRACTUAL RIGHTS.—The amendments made by paragraph (1) shall be subject to the contractual rights of the holders of any of the bonds of the Niagara Falls Bridge Commission which are outstanding as of the date of the enactment of this section.

(b) REPAYMENTS.—Section 5 of the Joint Resolution is amended— 52 Stat. 769.

(1) in the first sentence—

(A) by striking "a fund" and "a sinking fund" each place such terms appear and inserting "funds",

(B) by striking "herein provided" and inserting "provided by resolution",

(C) by striking "bonds" and inserting "obligations,", and

(D) by striking "bridge" and inserting "bridges" each place such term appears, and

(2) by striking the second and third sentences and inserting: "After payment or provision for payment of the foregoing uses, the remainder of the tolls shall be applied, as and when the Commission determines, for purposes convenient to the accomplishment of its purposes.".

52 Stat. 769.

(c) TREATMENT OF COMMISSION.—The last sentence of section 6 of the Joint Resolution is amended to read as follows: "The Commission shall be deemed for purposes of all Federal law to be a public agency or public authority of the State of New York, notwithstanding any other provision of law.".

52 Stat. 770.

(d) ADMINISTRATIVE PROVISIONS.—Section 8 of the Joint Resolution is amended in the second sentence thereof by striking out "shall not be entitled to any compensation for their services but" and inserting "shall be entitled to reimbursement for actual expenses incurred in the performance of official duties and to a per diem allowance per member of $150 when rendering services as such member (but not exceeding $10,000 for any member in any fiscal year).".

Contracts.

SEC. 1071. PEACE BRIDGE TRUCK INSPECTION FACILIITIES.

Notwithstanding any other provision of law, the Administrator of General Services shall lease truck inspection facilities for the Peace Bridge. Such facilities must be immediately adjacent to the intersection of Porter Avenue and the New York State Thruway in Buffalo, New York. Before leasing such facilities, the Administrator must be assured that the facilities will be offered at a fair market price and that the facilities chosen will be connected to the bridge by a secure access road. Provided that these conditions are met, the Administrator shall enter into the lease on or before April 30, 1992.

23 USC 130 note.

SEC. 1072. VEHICLE PROXIMITY ALERT SYSTEM.

The Secretary shall coordinate the field testing of the vehicle proximity alert system and comparable systems to determine their feasibility for use by priority vehicles as an effective railroad-highway grade crossing safety device. In the event the vehicle proximity alert or a comparable system proves to be technologically and economically feasible, the Secretary shall develop and implement appropriate programs under section 130 of title 23, United States Code, to provide for installation of such devices where appropriate.

23 USC 109 note.

SEC. 1073. ROADSIDE BARRIERS AND SAFETY APPURTENANCES.

(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding to revise the guidelines and establish standards for installation of roadside barriers and other safety appurtenances, including longitudinal barriers, end terminals, and crash cushions. Such rulemaking shall reflect state-of-the-art designs, testing, and evaluation criteria contained in the National Cooperative Highway Research Program Report 230, relating to approval standards which provide an enhanced level of crashworthy performance to accommodate vans, mini-vans, pickup trucks, and 4-wheel drive vehicles.

(b) FINAL RULE.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall complete the rulemaking proceeding initiated under subsection (a), and issue a final rule

regarding the implementation of revised guidelines and standards for acceptable roadside barriers and other safety appurtenances, including longitudinal barriers, end terminals, and crash cushions. Such revised guidelines and standards shall accommodate vans, mini-vans, pickup trucks, and 4-wheel drive vehicles and shall be applicable to the refurbishment and replacement of existing roadside barriers and safety appurtenances as well as to the installation of new roadside barriers and safety appurtenances.

SEC. 1074. DESIGNATION OF UNITED STATES ROUTE 69.

Notwithstanding any other provision of law, upon the request of the Oklahoma State highway agency, the Secretary shall designate the portion of United States Route 69 from the Oklahoma-Texas State line to Checotah in the State of Oklahoma as a part of the Interstate System pursuant to section 139 of title 23, United States Code.

SEC. 1075. SPECIAL PROVISIONS REGARDING CERTAIN HYDROELECTRIC PROJECTS.

(a) BRASFIELD DAM PROJECT IN VIRGINIA.—(1) Notwithstanding section 13 of the Federal Power Act providing for the termination of a license issued by the Federal Energy Regulatory Commission (hereinafter in this subsection referred to as the "Commission") to the Appomattox River Water Authority (hereinafter in this subsection referred to as the "Authority") for the Brasfield Dam Hydroelectric Project (FERC Project No. 9840-001) on the Appomattox River in Chesterfield and Dinwiddie Counties, Virginia, and notwithstanding the prior surrender of such license by the Authority, the Commission shall reissue such license to the Authority, together with any amendments necessary and appropriate to carry out this subsection, and extend the period referred to in section 13 of that Act for a period ending 3 years after the enactment of this Act, subject to the requirements of this section and the provisions of Federal Power Act.

(2) During the 3-year period referred to in paragraph (1), the Commission shall issue an order, at the request of the Authority, permitting the Authority to transfer the license for such project to another person designated by the Authority for the purpose of protecting the Authority from challenge in connection with its agreement of trust with the Crestar Bank or under any provision of law of the State of Virginia. Any such transfer shall occur at a time specified in the order which shall not be after the expiration of the 3-year period referred to in paragraph (1).

(3) Any license transfer under this subsection shall require that the licensee shall be subject to, and comply with, the license and the provisions of the Federal Power Act, including the provisions of section 10 thereof (related to fish and wildlife) with respect to such project to the same extent and in the same manner as the Authority would be subject to such license and such Act in the absence of such transfer. Nothing in the transfer of such license shall affect the authority or power of the Commission under the license or under the Federal Power Act. Nothing in the Federal Power Act shall be construed as precluding a transfer of such license for the purposes specified in this section.

(4) Any license transfer under this subsection shall be subject to revocation, at the request of the Authority, to permit the Authority

to surrender the license. No surrender of such license by the Authority (or by any other person) shall be effective until after—

(A) reasonable prior notice (as determined by the Commission),

(B) completion of project construction, including the installation of any facilities for the protection, mitigation, and enhancement of fish and wildlife required under the license (including facilities required by the State fish and wildlife agency); and

(C) delivery to the Commission of a statement certified by the Board of the Authority that the terms of any actual or proposed Commission order with respect to the Brasfield Dam Hydroelectric Project would cause the Authority to act in violation of its Charter or be inconsistent with its bond indentures.

The Commission shall accept the surrender of such license and establish conditions applicable to such license surrender which require the removal of hydroelectric power generation facilities, require that the licensee provide assurances satisfactory to the Commission that, following surrender of the license, the Brasfield Dam will be subject to State laws regarding fish and wildlife and dam safety and require that such surrender will not impose any duty, liability or obligation on the part of any department, agency, or instrumentality of the United States. Nothing in this section shall affect the application of the River and Harbor Act of 1894 (33 U.S.C. Sec. 1).

(b) PROJECTS NOS. 3033, 3034, AND 3246.—(1) Notwithstanding the time limitations of section 13 of the Federal Power Act (16 U.S.C. 806), the Federal Energy Regulatory Commission, upon the request of the licensees for Federal Energy Regulatory Commission Projects Nos. 3033, 3034, and 3246 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section and the Commission's procedures under such section, to extend—

(A) until August 10, 1994, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3033, and until August 10, 1999, the time required for completion of construction of the project;

(B) until August 10, 1996, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3034, and until August 10, 2001, the time required for completion of construction of the project; and

(C) until October 15, 1995, the time required for the licensee to acquire the required real property and commence the construction of Project No. 3246, and until October 15, 1999, the time required for completion of construction of the project.

Termination date.

(2) The authorization for issuing extensions under this subsection shall terminate 3 years after the date of enactment of this section.

(3) To facilitate requests under this subsection, the Commission may consolidate the requests.

(c) UNION CITY, MICHIGAN.—Notwithstanding section 23(b) or section 4(e) of the Federal Power Act, it shall not be unlawful for the municipality of Union City, Michigan, to operate, maintain, repair, reconstruct, replace, or modify—

(1) any dam which, as of the date of the enactment of this Act, is owned and operated by Union City, Michigan, and located across a segment of the St. Joseph River, in Branch County,

Michigan, approximately 5 miles downstream from such municipality, or

(2) any water conduit, reservoir, power house, and other works incidental to such dam.

No license shall be required under part 1 of the Federal Power Act for the dam, water conduit, reservoir, power house, or other project works referred to in the preceding sentence and, subject to compliance with State laws, permission is hereby granted for such facilities to the same extent as in the case of facilities for which permission is granted under the last sentence of section 23(b) of that Act.

SEC. 1076. SHORELINE PROTECTION. New York.

The project for shoreline protection, Atlantic Coast of New York City from Rockaway Inlet to Norton Point, authorized by section 501(a) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4135), is modified to authorize the Secretary to construct the project at a total first cost of $69,200,000, based on the New York District Engineer's draft General Design Memorandum dated April 1991, with an estimated first Federal cost of $39,800,000 and an estimated non-Federal cost of $29,400,000, and an average annual cost of $580,000 for periodic nourishment over the life of the project, with an estimated annual Federal cost of $377,000 and an estimated annual non-Federal cost of $203,000. The Secretary shall proceed with the storm damage reduction measures as the first construction feature. The project is further modified to authorize the Secretary to relocate existing comfort and lifeguard stations at full Federal expense, provided such relocations are desired by the non-Federal sponsor. Operation and maintenance of the facilities after relocation will be a non-Federal responsibility. The cost of these relocations shall not be treated as a project cost for purposes of either economic evaluation or project cost-sharing of the project.

SEC. 1077. REVISION OF MANUAL. Regulations.

Not later than 90 days after the date of the enactment of this Act, the Secretary shall revise the Manual of Uniform Traffic Control Devices and such other regulations and agreements of the Federal Highway Administration as may be necessary to authorize States and local governments, at their discretion, to install stop or yield signs at any rail-highway grade crossing without automatic traffic control devices with 2 or more trains operating across the rail-highway grade crossing per day.

SEC. 1078. DECLARATION OF NONNAVIGABILITY OF PORTION OF HUDSON RIVER, NEW YORK. 33 USC 59cc.

(a) DECLARATION OF NONNAVIGABILITY.—Subject to subsections (c), (d), and (e), the area described in subsection (b) is declared to be nonnavigable waters of the United States.

(b) AREA SUBJECT TO DECLARATION.—The area described in this subsection is the portion of the Hudson River, New York, described as follows (according to coordinates and bearings in the system used on the Borough Survey, Borough President's Office, New York, New York):

Beginning at a point in the United States Bulkhead Line approved by the Secretary of War, July 31, 1941, having a coordinate of north 1918.003 west 9806.753;

Running thence easterly, on the arc of a circle curving to the left, whose radial line bears north 3°-44'-20" east, having a

radius of 390.00 feet and a central angle of 22°-05′-50″, 150.41 feet to a point of tangency;

Thence north 71°-38′-30″ east, 42.70 feet;

Thence south 11°-05′-40″ east, 33.46 feet;

Thence south 78°-54′-20″ west, 0.50 feet;

Thence south 11°-05′-40″ east, 2.50 feet;

Thence north 78°-54′-20″ east, 0.50 feet;

Thence south 11°-05′-40″ east, 42.40 feet to a point of curvature;

Thence southerly, on the arc of a circle curving to the right, having a radius of 220.00 feet and a central angle of 16°-37′-40″, 63.85 feet to a point of compound curvature;

Thence still southerly, on the arc of a circle curving to the right, having a radius of 150.00 feet and a central angle of 38°-39′-00″, 101.19 feet to another point of compound curvature;

Thence westerly, on the arc of a circle curving to the right, having a radius of 172.05 feet and a central angle of 32°-32′-03″, 97.69 feet to a point of curve intersection;

Thence south 13°-16′-57″ east, 50.86 feet to a point of curve intersection;

Thence westerly, on the arc of a circle curving to the left, whose radial bears north 13°-16′-57″ west, having a radius of 6.00 feet and a central angle of 180°-32′-31″, 18.91 feet to a point of curve intersection;

Thence southerly, on the arc of a circle curving to the left, whose radial line bears north 75°-37′-11″ east, having a radius of 313.40 feet and a central angle of 4°-55′-26″, 26.93 feet to a point of curve intersection;

Thence south 70°-41′-45″ west, 36.60 feet;

Thence north 13°-45′-00″ west, 42.87 feet;

Thence south 76°-15′-00″ west, 15.00 feet;

Thence south 13°-45′-00″ east, 44.33 feet;

Thence south 70°-41′-45″ west, 128.09 feet to a point in the United States Pierhead Line approved by the Secretary of War, 1936;

Thence north 63°-08′-48″ west, along the United States Pierhead Line approved by the Secretary of War, 1936, 114.45 feet to an angle point therein;

Thence north 61°-08′-00″ west, still along the United States Pierhead Line approved by the Secretary of War, 1936, 202.53 feet;

The following three courses being along the lines of George Soilan Park as shown on map prepared by The City of New York, adopted by the Board of Estimate, November 13, 1981, Acc. N° 30071 and lines of property leased to Battery Park City Authority and B. P. C. Development Corp;

Thence north 77°-35′-20″ east, 231.35 feet;

Thence north 12°-24′-40″ west, 33.92 feet;

Thence north 54°-49′-00″ east, 171.52 feet to a point in the United States Bulkhead Line approved by the Secretary of War, July 31, 1941;

Thence north 12°-24′-40″ west, along the United States Bulkhead Line approved by the Secretary of War, July 31, 1941, 62.26 feet to the point or place of beginning;

(c) DETERMINATION OF PUBLIC INTEREST.—The declaration made in subsection (a) shall not take effect if the Secretary of the Army

(acting through the Chief of Engineers), using reasonable discretion, finds that the proposed project is not in the public interest—

(1) before the date which is 120 days after the date of the submission to the Secretary of appropriate plans for the proposed project; and

(2) after consultation with local and regional public officials (including local and regional public planning organizations).

(d) LIMITATION ON APPLICABILITY OF DECLARATION.—

(1) AFFECTED AREA.—The declaration made in subsection (a) shall apply only to those portions of the area described in subsection (b) which are or will be occupied by permanent structures (including docking facilities) comprising the proposed project.

(2) APPLICATION OF OTHER LAWS.—Notwithstanding subsection (a), all activities conducted in the area described in subsection (b) are subject to all Federal laws which apply to such activities, including—

(A) sections 9 and 10 of the Act of March 3, 1899 (33 U.S.C. 401, 403), commonly known as the River and Harbors Appropriation Act of 1899;

(B) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1254); and

(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) EXPIRATION DATE.—The declaration made in subsection (a) shall expire—

(1) on the date which is 6 years after the date of the enactment of this Act if work on the proposed project to be performed in the area described in subsection (b) is not commenced before such date; or

(2) on the date which is 20 years after the date of the enactment of this Act for any portion of the area described in subsection (b) which on such date is not bulkheaded, filled, or occupied by a permanent structure (including docking facilities).

(f) PROPOSED PROJECT DEFINED.—For the purposes of this section, the term "proposed project" means any project for the rehabilitation and development of—

(1) the structure located in the area described in subsection (b), commonly referred to as Pier A; and

(2) the area surrounding such structure.

SEC. 1079. CLEVELAND HARBOR, OHIO.

(a) DEAUTHORIZATION OF PORTION OF PROJECT FOR HARBOR MODIFICATION.—That portion described in subsection (b) of the project for harbor modification, Cleveland Harbor, Ohio, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4095), is not authorized after the date of the enactment of this Act.

(b) AREA SUBJECT TO DEAUTHORIZATION.—The portion of the project for harbor modification, Cleveland Harbor, Ohio, described in this subsection is that portion situated in the City of Cleveland, Cuyahoga County, and State of Ohio, T7N, R13W and being more fully described as follows:

Beginning at an iron pin monument at the intersection of the centerline of East 9th Street (99 feet wide) with the centerline of relocated Erieside Avenue N.E. (70 ft. wide);

Thence south 50°-06′-52″ west on the centerline of relocated Erieside Avenue N.E. a distance of 112.89 feet to a point;

Thence southwesterly continuing on the centerline of relocated Erieside Avenue N.E. along the arc of a curve to the left, with a radius of 300.00 feet and whose chord bears south 42°-36'-52" west 140.07 feet, an arc distance of 141.37 feet to a point;

Thence north 60°-53'-08" west a distance of 35.00 feet to a point on the northwesterly right-of-way line of relocated Erieside Avenue N.E;

Thence south 29°-06'-52" west on the northwesterly right-of-way line of relocated Erieside Avenue N.E. a distance of 44.36 feet to a point;

Thence north 33°-53'-08" west a distance of 158.35 feet to a point;

Thence south 56°-06'-52" west a distance of 76.00 feet to a point;

Thence north 78°-53'-08" west a distance of 18.39 feet to a point;

Thence north 33°-53'-08" west a distance of 33.50 feet to a point, said point being the true place of beginning of the parcel herein described;

Thence south 56°-06'-52" west a distance of 84.85 feet to a point;

Thence north 33°-53'-08" west a distance of 137.28 feet to a point;

Thence north 11°-06'-52" east a distance of 225.00 feet to a point;

Thence south 78°-53'-08" east a distance of 160.00 feet to a point;

Thence south 11°-06'-52" west a distance of 46.16 feet to a point;

Thence south 56°-06'-52" west a distance of 28.28 feet to a point;

Thence south 11°-06'-52" west a distance of 89.70 feet to a point;

Thence south 33°-53'-08" east a distance of 28.28 feet to a point;

Thence south 11°-06'-52" west a distance of 83.29 feet to a point;

Thence south 56°-06'-52" west a distance of 4.14 feet to a true place of beginning containing 42,646 square feet more or less;

(c) REIMBURSEMENT NOT REQUIRED.—The Ohio Department of Natural Resources shall not be required to reimburse the Federal Government any portion of the credit received by the non-Federal project sponsor as provided for in Public Law 100-202 (101 Stat. 1329-108).

33 USC 59dd.

(d) AREA TO BE DECLARED NONNAVIGABLE; PUBLIC INTEREST.—Unless the Secretary of the Army finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries in the portions of Cleveland Harbor, Ohio, described below, are not in the public interest then, subject to subsections (e) and (f) of this section, those portions of such Harbor, bounded and described as follows, are declared to be nonnavigable waters of the United States:

Situated in the City of Cleveland, Cuyahoga County and State of Ohio, T7N, R13W and being more fully described as follows:

Beginning at an iron pin monument at the intersection of the centerline of East 9th Street (99 feet wide) with the

centerline of relocated Erieside Avenue, N.E., (70 feet wide) at Cleveland Regional Geodetic Survey Grid System, (CRGS) coordinates N92,679.734, E86,085.955;

Thence south 56°-06'-52" west on the centerline of relocated Erieside Avenue, N.E., a distance of 89.50 feet to a drill hole set;

Thence north 33°-53'-08" west a distance of 35.00 feet to a drill hole set on the north-westerly right-of-way line of relocated Erieside Avenue, N.E., said point being the true place of beginning of the parcel herein described;

Thence south 56°-06'-52" west on the northwesterly right-of-way line of relocated Erieside Avenue, N.E., a distance of 23.39 feet to a ⅝ inch re-bar set;

Thence southwesterly on the northwesterly right-of-way line of relocated Erieside Avenue, N.E., along the arc of a curve to the left with a radius of 335.00 feet, and whose chord bears south 42°-36'-52" west 156.41 feet, an arc distance of 157.87 feet to a ⅝ inch re-bar set;

Thence south 29°-06'-52" west on the northwesterly right-of-way line of relocated Erieside Avenue, N.E., a distance of 119.39 feet to a ⅝ inch re-bar set;

Thence southwesterly on the northwesterly right-of-way of relocated Erieside Avenue, N.E., along the arc of a curve to the right with a radius of 665.00 feet, and whose chord bears south 32°-22'-08" west 75.50 feet, an arc distance of 75.54 feet to a ⅝ inch re-bar set;

Thence north 33°-53'-08" west a distance of 279.31 feet to a drill hole set;

Thence south 56°-06'-52" west a distance of 37.89 feet to a drill hole set;

Thence north 33°-53'-08" west a distance of 127.28 feet to a point;

Thence north 11°-06'-52" east a distance of 225.00 feet to a point;

Thence south 78°-53'-08" east a distance of 150.00 feet to a drill hole set;

Thence north 11°-06'-52" east a distance of 32.99 feet to a drill hole set;

Thence north 33°-53'-08" east a distance of 46.96 feet to a drill hole set;

Thence north 56°-06'-52" east a distance of 140.36 feet to a drill hole set on the southwesterly right-of-way line of East 9th Street;

Thence south 33°-53'-08" east on the southwesterly right-of-way line of East 9th Street a distance of 368.79 feet to a drill hole set;

Thence southwesterly along the arc of a curve to the right with a radius of 40.00 feet, and whose chord bears south 11°-06'-52" west 56.57 feet, an arc distance of 62.83 feet to the true place of beginning containing 174,764 square feet (4.012 acres) more or less.

(e) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under subsection (d) shall apply only to those parts of the areas described in subsection (d) which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations, including sections 9 and 10 of the Act of

March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401 and 403), commonly known as the River and Harbors Appropriation Act of 1899, section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.

(f) EXPIRATION DATE.—If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (d) is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in subsection (e) of this section, or if work in connection with any activity permitted in subsection (e) is not commenced within 5 years after issuance of such permit, then the declaration of nonnavigability for such area or part thereof shall expire.

SEC. 1080. DEAUTHORIZATION OF A PORTION OF THE CANAVERAL HARBOR, FLORIDA, PROJECT.

The following portion of the project for navigation, Canaveral Harbor, Florida, authorized by the River and Harbor Act of 1945, as modified by the River and Harbor Act of 1962 (Public Law 87-874), shall not be authorized after the date of the enactment of this Act:

Begin at the northwesterly corner of the west turning basin, Federal navigation project, Canaveral Harbor, Brevard County, Florida, having a northing of 1,483,798.695 and an easting of 619,159.191 (Florida east zone, State plane transverse mercator standard conical projections) and being depicted on the Department of the Army, Jacksonville District, Corps of Engineers 'Construction Dredging 31 Foot Project', D.O. File No. 11-34, 465 sheet 35, dated October 1984; thence south 0°-18'-51" east, along said westerly boundary, a distance of 1320.00 feet; thence north 89°-41'-09" east, a distance of 1095.00 feet; thence north 62°-35'-15" west, a distance of 551.30 feet; thence north 56°-56'-18" east, a distance of 552.87 feet; thence south 89°-41'-09" west, a distance of 1072.00 feet to the point of beginning (containing 21.43 acres, more or less).

SEC. 1081. INFRASTRUCTURE INVESTMENT COMMISSION.

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the "Commission to Promote Investment in America's Infrastructure" (hereinafter in this section referred to as the "Commission").

(b) FUNCTION OF COMMISSION.—It shall be the function of the Commission to conduct a study on the feasibility and desirability of creating a type of infrastructure security to permit the investment of pension funds in funds used to design, plan, and construct infrastructure facilities in the United States. Such study may also include an examination of other methods of encouraging public and private investment in infrastructure facilities.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 7 members appointed as follows:

(A) 2 members appointed by the majority leader of the Senate.

(B) 2 members appointed by the Speaker of the House of Representatives.

(C) 1 member appointed by the President.

(D) 1 member appointed by the minority leader of the Senate.

(E) 1 member appointed by the minority leader of the House of Representatives.

(2) QUALIFICATIONS.—Members of the Commission shall have appropriate backgrounds in finance, construction lending, actuarial disciplines, pensions, and infrastructure policy disciplines.

(3) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members.

(d) PAY AND TRAVEL EXPENSES.—Members shall serve without pay but shall be allowed travel expenses, including per diem in lieu of subsistence, while away from their homes or regular places of business in the performance of services for the Commission in the same manner as persons employed intermittently in the Government service are allowed under section 5703 of title 5, United States Code.

(e) STAFF.—Subject to such rules as may be prescribed by the Commission, the Chairperson may—

(1) appoint and fix the pay of an executive director, a general counsel, and such additional staff as the Chairperson considers necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the rate of pay for such staff members may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Commission shall transmit to the President and Congress a report containing its findings and recommendations.

(g) TERMINATION.—The Commission shall terminate on the 180th day following the date of the submission of its report under subsection (f).

SEC. 1082. DEAUTHORIZATION OF ACADEMY CREEK FEATURE OF THE BRUNSWICK HARBOR, GEORGIA, PROJECT.

The Academy Creek feature of the Brunswick Harbor, Georgia, project, authorized for construction by the River and Harbor Act of 1907 in accordance with House Document 407, 59th Congress, shall not be authorized after the date of the enactment of this Act.

SEC. 1083. NAMINGS.

(a) WILLIAM H. HARSHA BRIDGE.—The United States Route 68 bridge across the Ohio River between Aberdeen, Ohio, and Maysville, Kentucky, shall be known and designated as the "William H. Harsha Bridge".

(b) J. CLIFFORD NAUGLE BYPASS.—The highway bypass being constructed around the Borough of Ligonier in Westmoreland County, Pennsylvania, shall be known and designated as the "J. Clifford Naugle Bypass".

(c) LINDY CLAIBORNE BOGGS LOCK AND DAM.—

(1) DESIGNATION.—The lock and dam numbered 1 on the Red River Waterway in Louisiana shall be known and designated as the "Lindy Claiborne Boggs Lock and Dam".

(2) REFERENCE.—Any reference in any law, regulation, document, record, map, or other paper of the United States to the lock and dam referred to in paragraph (1) shall be deemed to be a reference to the "Lindy Boggs Lock and Dam".

(d) JOSEPH RALPH SASSER BOAT RAMP.—

(1) DESIGNATION.—The boat ramp constructed on the left bank of the Mississippi River at River Mile 752.5 at Shelby Forest in Shelby County, Tennessee, shall be known and designated as the "Joseph Ralph Sasser Boat Ramp".

(2) LEGAL REFERENCE.—A reference to any law, map, regulation, document, record, or other paper of the United States to such boat ramp shall be deemed to be a reference to the "Joseph Ralph Sasser Boat Ramp".

Arkansas.

SEC. 1084. SIGNING OF UNITED STATES HIGHWAY 71.

The Arkansas State Highway and Transportation Department shall erect the signs along United States Highway 71 from the I-40 intersection to the Missouri-Arkansas State line which are required to be erected by the Arkansas State law designated as Act 6 of 1989.

SEC. 1085. CONTINUATION OF AUTHORIZATION FOR RHODE ISLAND NAVIGATION PROJECT.

(a) CONTINUATION OF AUTHORIZATION.—Notwithstanding section 1001(a) of the Water Resources Development Act of 1986, the project for navigation, Providence, Rhode Island, authorized by section 1166(c) of the Water Resources Development Act of 1986, shall remain authorized to be carried out by the Secretary.

(b) TERMINATION DATE.—The project described in subsection (a) shall not be authorized for construction after the last day of the 5-year period that begins on the date of the enactment of this Act unless, during this period, funds have been obligated for construction, including planning and design, of the project.

SEC. 1086. PENSACOLA, FLORIDA.

(a) STUDY.—The Secretary shall conduct a study of the feasibility of constructing, in accordance with standards applicable to Interstate System highways, a 4-lane highway connecting Interstate Route 65 and Interstate Route 10 in the vicinity of Pensacola, Florida.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with recommendations for the location of a corridor in which to construct the highway described in subsection (a).

SEC. 1087. INCLUSION OF CALHOUN COUNTY, MISSISSIPPI, IN APPALACHIA.

Section 403 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 403) is amended in the fifth undesignated paragraph of such section by inserting "Calhoun," after "Benton,".

23 USC 402 note.

SEC. 1088. HANDICAPPED PARKING SYSTEM.

(a) STUDY.—The Secretary shall conduct a study of the progress being made by the States in adopting and implementing the uniform

system for handicapped parking established in regulations issued by the Secretary pursuant to Public Law 100-641 (102 Stat. 3335).

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit a report to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives on the results of the study conducted under this section.

SEC. 1089. FEASIBILITY OF INTERNATIONAL BORDER HIGHWAY INFRASTRUCTURE DISCRETIONARY PROGRAM. 23 USC 144 note.

(a) STUDY.—The Secretary shall conduct a study of the advisability and feasibility of establishing an international border highway infrastructure discretionary program. The purpose of such a program would be to enable States and Federal agencies to construct, replace, and rehabilitate highway infrastructure facilities at international borders when such States, agencies, and the Secretary find that an international bridge or a reasonable segment of a major highway providing access to such a bridge (1) is important; (2) is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence; (3) poses a safety hazard to highway users; (4) by its construction, replacement, or rehabilitation, would minimize disruptions, delays, and costs to users; or (5) by its construction, replacement, or rehabilitation, would provide more efficient routes for international trade and commerce.

(b) REPORT.—Not later than September 30, 1993, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with any recommendations to the Secretary.

SEC. 1090. METHODS TO REDUCE TRAFFIC CONGESTION DURING CONSTRUCTION.

(a) SENSE OF CONGRESS.—It is the sense of Congress that many highway projects are carried out in a way which unnecessarily disrupts traffic flow during construction and that methods need to be adopted to eliminate or reduce these disruptions.

(b) STUDY.—The Secretary shall conduct a study on methods of enhancing traffic flow and minimizing traffic congestion during construction of Federal-aid highway projects and on costs associated with implementing such methods.

(c) CONSIDERATIONS.—In conducting the study under this section, the Secretary shall consider—

(1) the feasibility of carrying out construction of Federal-aid highway projects during off-peak periods and limiting closure of highway lanes on Federal-aid highways to portions of highways for which actual construction is in progress and for which safety concerns require closure; and

(2) the need for establishment and operation by each State of a toll-free telephone number to receive complaints and provide information regarding the status of construction on Federal-aid highways in the State.

(d) REPORT.—Not later than September 30, 1992, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with such recommendations as the Secretary considers appropriate.

23 USC 106 note.

SEC. 1091. STUDY OF VALUE ENGINEERING.

(a) STUDY.—The Secretary shall study the effectiveness and benefits of value engineering review programs applied to Federal-aid highway projects. Such study shall include an analysis of and the results of specialized techniques utilized in all facets of highway construction for the purpose of reduction of costs and improvement of the overall quality of Federal-aid highway projects.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall report to Congress on the results of the study under subsection (a), including recommendations on how value engineering could be utilized and improved in Federal-aid highway projects.

23 USC 112 note.

SEC. 1092. PILOT PROGRAM FOR UNIFORM AUDIT PROCEDURES.

(a) ESTABLISHMENT.—The Secretary shall establish a pilot program under which any contract or subcontract awarded in accordance with section 112(b)(2)(A) of title 23, United States Code, shall be performed and audited in compliance with cost principles contained in the Federal acquisition regulations of part 31 of title 48 of the Code of Federal Regulations. The pilot program under this section shall include participation of not more than 10 States.

(b) INDIRECT COST RATES.—In lieu of performing their own audits, the States participating in the pilot program shall accept indirect cost rates established in accordance with the Federal acquisition regulations for 1-year applicable accounting periods by a cognizant government agency or audited by an independent certified public accountant, if such rates are not currently under dispute. Once a firm's indirect cost rates are accepted, all the recipients of such funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment and shall not be limited by administrative or defacto ceilings in accordance with section 15.901(c) of such title 48. A recipient of such funds requesting or using the cost and rate data described in this subsection shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part, to any other firm or to any government agency which is not part of the group of agencies sharing cost data under this subsection, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

(c) REPORT.—Each State participating in the pilot program shall report to the Secretary not later than 3 years after the date of the enactment of this Act on the results of the program.

SEC. 1093. RENTAL RATES.

Within 1 year after the date of the enactment of this Act, the Comptroller General shall complete a study on equipment rental rates for use in reimbursing contractors for extra work on Federal-aid projects. Such study shall include an analysis of the reasonableness of currently accepted equipment rental costs, adequacy of adjustments for regional or climactic differences, adequacy of consideration of mobilization costs, loss of time and productivity attendant to short-term usage of equipment, and approvals of rental rate costs by the Federal Highway Administration.

SEC. 1094. STUDY ON STATE COMPLIANCE WITH REQUIREMENTS FOR REVOCATION AND SUSPENSION OF DRIVERS' LICENSES. 23 USC 159 note.

(a) STUDY.—The Secretary shall conduct a study of State efforts to comply with the provisions of section 333 of the Department of Transportation and Related Agencies Appropriations Acts, 1991 and 1992, relating to revocation and suspension of drivers' licenses.

(b) REPORT.—Not later than December 31, 1992, the Secretary shall transmit to Congress a report on the results of the study conducted under this section.

SEC. 1095. BROOKLYN COURTHOUSE.

The Administrator of the General Services Administration is authorized to enter into a lease with the United States Postal Service for space to house the Federal Courts and related Federal agencies in Brooklyn, New York. The Administrator is further authorized—

(1) to advance the amount provided in the fiscal year 1992 Treasury, Postal Service, and General Government Appropriation Act to the Postal Service to expedite the start of construction; and

(2) to transfer the present Emanuel Celler Federal Building and Courthouse in Brooklyn to the Postal Service.

SEC. 1096. BORDER STATION INTERNATIONAL FALLS, MINNESOTA.

The Administrator of the General Services Administration is authorized to provide for the construction of a 9,000 occupiable square foot border station at International Falls, Minnesota, at a total estimated cost of $2,480,000, in accordance with an amended prospectus submitted by the General Services Administration to the Senate Committee on Environment and Public Works on June 19, 1991.

SEC. 1097. MILLER HIGHWAY.

The Secretary shall deem the independent proposals to construct a new highway facility in the Route 9A corridor between the Battery and 59th Street, and to relocate the existing Miller Highway facility, between 59th Street and 72nd Street, on the west side of Manhattan, New York, New York, to be separate and distinct projects for the purposes of compliance with any applicable Federal laws.

SEC. 1098. ALLOCATION FORMULA STUDY. 23 USC 104 note.

(a) The General Accounting Office in conjunction with the Bureau of Transportation Statistics created pursuant to title VI of this Act, shall conduct a thorough study and recommend to the Congress within 2 years after the date of the enactment of this Act a fair and equitable apportionment formula for the allocation of Federal-aid highway funds that best directs highway funds to the places of greatest need for highway maintenance and enhancement based on the extent of these highway systems, their present use, and increases in their use.

(b) The results of this study shall be presented to the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation on or before January 1, 1994, and shall be considered by these committees as they reauthorize the surface transportation program in 1996.

SEC. 1099. ESTABLISHMENT OF INTERSTATE STUDY COMMISSION.

For the National Capital Region, comprised of the Washington, D.C., Metropolitan Statistical Area, a commission is established to recommend new mechanisms, authority, and/or agreements to fund, develop, and manage the transportation system of the National Capital Region, and primarily focusing on interstate highway and bridge systems. The commission shall develop its recommendations consistent with the transportation planning requirements for metropolitan areas as contained elsewhere in this bill. The study commission shall report to the Congress, the Department of Transportation, the Governors of Maryland and Virginia, the Mayor of the District of Columbia, and the National Capital Region Transportation Planning Board, the designated Metropolitan Planning Organization (MPO) for the Washington metropolitan area, no later than 12 months from the date of passage of this legislation. Representatives on the commission shall include a Member of Congress from each of Maryland, Virginia, and the District of Columbia; the Governors of Maryland and Virginia and the Mayor of the District of Columbia; 1 local elected official from each State and the District of Columbia appointed by the National Capital Region Transportation Planning Board; 3 private sector representatives appointed by the Governors and the Mayor; and the commission chairman to be appointed by the Secretary of Transportation. There is authorized to be appropriated for the purposes of carrying out this section such sums as may be necessary for the commission to carry out its functions.

Appropriation authorization. 23 USC 104 note.

SEC. 1100. EFFECTIVE DATE; APPLICABILITY; CERTAIN UNOBLIGATED BALANCES.

(a) GENERAL RULE.—This title, including the amendments made by this title, shall take effect on the date of the enactment of this Act.

(b) APPLICABILITY.—The amendments made by this title shall apply to funds authorized to be appropriated or made available after September 30, 1991, and, except as otherwise provided in subsection (c), shall not apply to funds appropriated or made available on or before September 30, 1991.

(c) UNOBLIGATED BALANCES.—

(1) IN GENERAL.—Unobligated balances of funds apportioned to a State under sections 104(b)(1), 104(b)(2), 104(b)(5)(B), and 104(b)(6) of title 23, United States Code, before October 1, 1991, shall be available for obligation in that State under the law, regulations, policies and procedures relating to the obligation and expenditure of those funds in effect on September 30, 1991.

(2) TRANSFERABILITY.—

(A) PRIMARY SYSTEM.—A State may transfer unobligated balances of funds apportioned to the State for the Federal-aid primary system before October 1, 1991, to the apportionment to such State under section 104(b)(1) or 104(b)(3) of title 23, United States Code, or both.

(B) SECONDARY AND URBAN SYSTEM.—A State may transfer unobligated balances of funds apportioned to the State for the Federal-aid secondary system or the Federal-aid urban system before October 1, 1991, to the apportionment to such State under section 104(b)(3) of such title.

(C) APPLICABILITY OF CERTAIN LAWS, REGULATIONS, POLICIES, AND PROCEDURES.—Funds transferred under this paragraph shall be subject to the laws, regulations, policies, and

procedures relating to the apportionment to which they are transferred.

SEC. 1101-1102. STUDY ON IMPACT OF CLIMATIC CONDITIONS. 23 USC 104 note.

(a) STUDY.—The Secretary shall conduct a study of the effects of climatic conditions on the costs of highway construction and maintenance. The study shall take into account such climatic conditions as freezing, thawing, and precipitation and the impact of climatic conditions on increased highway design costs and decreased highway service life in the various regions of the United States.

(b) REPORT.—Not later than September 30, 1993, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with such recommendations as the Secretary considers appropriate. The report shall include a description of the implications of the differing costs on the allocation of highway funds to the States.

SEC. 1103. HIGH COST BRIDGE PROJECTS.

(a) PURPOSE.—The purpose of this section is to provide funds to accelerate construction of high cost bridge projects.

(b) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out the high cost of bridge projects described in this subsection. Subject to subsection (c), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out each such project the amount listed for each such project:

	CITY/STATE	HIGH COST BRIDGES	AMOUNT in millions
1.	Delaware, Oklahoma	Construction of a replacement bridge on U.S. Rt. 59 over Grand Lake in Delaware, Oklahoma	9.7
2.	Eugene, Oregon	Construction of the Ferry Street Bridge	23.7
3.	Beaver County, Pennsylvania	Construction of Aliquippa Ambridge Bridge of Beaver County, Pennsylvania	25.0
4.	Arkansas	For an expanded study of environmental impact and geo technical information for Arkansas-Mississippi Great River Bridge	0.8
5.	Gloucester Point, Virginia	Provide for additional crossing capacity of the York River	11.8
6.	San Francisco, California	For preliminary work associated with the seismic upgrading of the Golden Gate Bridge in San Francisco, California	5.9
7.	Cape May & Atlantic Counties, New Jersey	Replace critically important bridge between Ocean City and Longport, New Jersey	18.4
8.	Ohio	Conduct environmental and feasibility studies for the construction of a bridge or tunnel across the Maumee River in the vicinity of an existing left span bridge	1.0
9.	Maine	Donald B. Carter Memorial Bridge	32.1
10.	Shakopee, Minnesota	Bloomington Ferry Bridge replacement, Shakopee, Minnesota	22.0

	CITY/STATE	HIGH COST BRIDGES	AMOUNT in millions
11.	Charleston, South Carolina	Highway 17 Bridge replacement projects: Cooper River, Charleston, South Carolina	14.2
12.	Ft. Lauderdale, Florida	17th Street Causeway Tunnel/ Bridge replacement, Ft. Lauderdale, Florida	13.6
13.	Maryland	Woodrow Wilson Bridge rehabilitation	29.6
14.	New York	Macomb Dam Bridge, Manhattan Bridge Rehabilitation Project, Queensboro Bridge—Rehabilitation of Main Span, Williamsburg Bridge Rehabilitation Project, Brooklyn Bridge Rehabilitation	74.0
15.	Miami, Florida	Complete construction of Dodge Island Bridge	3.4

(c) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by subsection (b) for each project authorized by subsection (b) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(d) FEDERAL SHARE.—The Federal share payable on account of any project under this section shall be 80 percent of the cost thereof.

(e) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this section to the State in which such project or projects are located upon request of such State.

(f) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this section—

(1) has obligated all funds allocated under this section for construction of such project; and

(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section.

(g) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such 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 section shall be determined in accordance with this section and such funds shall remain available until expended. Funds authorized by this section shall not be subject to any obligation limitation.

SEC. 1104. CONGESTION RELIEF PROJECTS.

(a) PURPOSE.—The purpose of this section is to improve methods of congestion relief.

(b) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out the congestion relief projects described in this subsection.

Subject to subsection (c), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out each such project the amount listed for each such project:

	CITY/STATE	CONGESTION RELIEF	AMOUNT in millions
1.	Long Beach, California	Construction of HOV Lanes on I-710	7.4
2.	Philadelphia, Pennsylvania	Project to Construct Bridge-Pratt Terminal as part of an I-95 reconstruction mitigation project	34.5
3.	Davidson-Williamson County, Tennessee	Study and construction of the Davidson-Williamson Bike Path	1.0
4.	East St. Louis, Illinois to St. Louis, Missouri	To conduct a study to determine the feasibility of a bridge between East St. Louis, Illinois and St. Louis, Missouri	1.4
5.	St. Louis, Missouri	Relocation of Lindbergh Boulevard and Interstate 70 at St. Louis Lambert Airport	14.8
6.	District of Columbia	Primary Intermodal System, Washington, D.C.	6.8
7.	Buffalo, New York	Construction of Peace Bridge truck inspection facility	19.5
8.	Nashua, New Hampshire	Nashua River Bridge, Nashua, New Hampshire—Construction of second bridge	1.2
9.	Las Vegas, Nevada	Reconstruct and upgrade I-15/U.S. 95 (Spaghetti Bowl)	45.0
10.	San Diego, California	Construct 1 block of Cut and Cover Tunnel on Rt. 15 in downtown San Diego, California	5.0
11.	Los Angeles, California	To extend I-110 North from its current terminus at I-10 into downtown Los Angeles via Central City West Area in Los Angeles, California	10.1
12.	North Dakota	Design and construct 7.5 mile bypass around Lincoln State Park	1.1
13.	Babylon, New York	Construct turning lanes, sign upgrades, traffic signal interconnections and road repair and resurfacing	2.1
14.	Dixon, California	To improve 3 grade crossings in Dixon, California	1.8
15.	Fairfield, California	To construct 2 park & ride facilities, an information center and transfer hub for I-80 express and local bus service	7.7
16.	St. Louis, Missouri	Feasibility study for interchange improvements for I-255 at Rt. 231, St. Louis, Missouri	0.1
17.	Murfreesbro, Tennessee	Conduct a feasibility study of constructing a bicycle system as an alternative form of commuter transportation, air pollution reduction, and enhance recreation	0.4
18.	Long Island, New York	To make improvements on the Van Wyck Expressway to improve traffic flow, Long Island, New York	3.6

	CITY/STATE	CONGESTION RELIEF	AMOUNT in millions
19.	Fox River Valley, Illinois	Study, plan and construct up to 8 bridges across the Fox River	8.3
20.	Prince George's County, Maryland	To rehabilitate the Baltimore-Washington Parkway in Prince George's County, Maryland	16.3
21.	Toledo, Ohio	Conduct study of possible safety and traffic delay improvement benefits in 6 corridors	0.24
22.	Boston, Massachusetts	To plan and construct a bicycle and pedestrian path connecting Arlington, Cambridge and Boston, Massachusetts	1.2
23.	Tucson, Arizona	To make interchange improvements at Oracle and Orange Grove Roads in Tucson, Arizona	3.9
24.	Victorville, California	Construct interchange 1 mile north of Palmdale Road on I-15	2.7
25.	Palm Beach, Florida	Acquire right-of-way and construct and widen to 4 lanes 19 mile segment of U.S. 27	5.5
26.	Pennsylvania	Improve River Street, Towanda Borough and North Towanda Township to form highway bypass	8.8
27.	Maine	Topsham-Brunswick Bypass	10.5
28.	Rankin County, Mississippi	East-Metro Center Access Road	4.6
29.	Kansas	West Leavenworth Trafficway Project, Leavenworth, Kansas	8.6
30.	Broward County, Florida	Hallandale Bridge Project, Broward County, Florida	8.5
31.	Idaho	Any of the Federal-aid projects eligible for funding under title 23, United States Code, located in Bannock or Caribou County, shall be eligible for funding	10.1
32.	Michigan	I-75/M57 Interchange improvement in the vicinity of Vienna Township, Michigan	8.9
33.	Prince William County, Virginia	I-95 HOV lane extension	13.5
34.	St. Thomas, Virgin Islands	Construction of Raphune Hill Bypass, St. Thomas, Virgin Islands	18.4
35.	Merrillville, Indiana	Construction of four lane road and overpass	1.8
36.	Milwaukee and Waukesha Counties, Wisconsin	I-794 Bicycle Transportation Project in Milwaukee and Waukesha Counties, Wisconsin	1.5
37.	Richmond, California	I-80 Richmond Parkway Interchange	1.8
38.	New York, New York	Construction of Williamsburg to Holland Tunnel Bypass	3.6
39.	Louisville, Kentucky	Waterfront Development Roadway Improvements	4.7
40.	Sunnyvale, California	HOV lane improvements on Lawrence Expressway	10.1
41.	Ohio	Construction of a bicycle/pedestrian facility from Greene County, Ohio, to Dayton, Ohio	3.0

	CITY/STATE	CONGESTION RELIEF	AMOUNT in millions
42.	Jefferson County and Berkeley County, West Virginia	Improvements of State Highway 9 from Martinsburg, West Virginia to Virginia State line	110.0
43.	West Virginia	Construction of the Coal Fields Expressway from Beckley, West Virginia to Virginia State line	50.0
44.	Maine	Improvements to the Carlton Bridge in Bath-Woolwich	10.0

(c) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by subsection (b) for each project authorized by subsection (b) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(d) FEDERAL SHARE.—The Federal share payable on account of any project under this section shall be 80 percent of the cost thereof.

(e) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this section to the State in which such project or projects are located upon request of such State.

(f) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this section—

(1) has obligated all funds allocated under this section for construction of such project; and

(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section.

(g) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such 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 section shall be determined in accordance with this section and such funds shall remain available until expended. Funds authorized by this section shall not be subject to any obligation limitation.

SEC. 1105. HIGH PRIORITY CORRIDORS ON NATIONAL HIGHWAY SYSTEM.

(a) FINDINGS.—The Congress finds that—

(1) the construction of the Interstate Highway System connected the major population centers of the Nation and greatly enhanced economic growth in the United States;

(2) many regions of the Nation are not now adequately served by the Interstate System or comparable highways and require further highway development in order to serve the travel and economic development needs of the region; and

(3) the development of transportation corridors is the most efficient and effective way of integrating regions and improving efficiency and safety of commerce and travel and further promoting economic development.

(b) PURPOSE.—It is the purpose of this section to identify highway corridors of national significance; to include those corridors on the National Highway System; to allow the Secretary, in cooperation with the States, to prepare long-range plans and feasibility studies for these corridors; to allow the States to give priority to funding the construction of these corridors; and to provide increased funding for segments of these corridors that have been identified for construction.

(c) IDENTIFICATION OF HIGH PRIORITY CORRIDORS ON NATIONAL HIGHWAY SYSTEM.—The following are high priority corridors on the National Highway System:

(1) North-South Corridor from Kansas City, Missouri, to Shreveport, Louisiana.

(2) Avenue of the Saints Corridor from St. Louis, Missouri, to St. Paul, Minnesota.

(3) East-West Transamerica Corridor.

(4) Hoosier Heartland Industrial Corridor from Lafayette, Indiana, to Toledo, Ohio.

(5) I-73/74 North-South Corridor from Charleston, South Carolina, through Winston-Salem, North Carolina, to Portsmouth, Ohio, to Cincinnati, Ohio, and Detroit, Michigan.

(6) United States Route 80 Corridor from Meridian, Mississippi, to Savannah, Georgia.

(7) East-West Corridor from Memphis, Tennessee, through Huntsville, Alabama, to Atlanta, Georgia, and Chattanooga, Tennessee.

(8) Highway 412 East-West Corridor from Tulsa, Oklahoma, through Arkansas along United States Route 62/63/65 to Nashville, Tennessee.

(9) United States Route 220 and the Appalachian Thruway Corridor from Business 220 in Bedford, Pennsylvania, to the vicinity of Corning, New York.

(10) Appalachian Regional Corridor X.

(11) Appalachian Regional Corridor V.

(12) United States Route 25E Corridor from Corbin, Kentucky, to Morristown, Tennessee, via Cumberland Gap, to include that portion of Route 58 in Virginia which lies within the Cumberland Gap Historical Park.

(13) Raleigh-Norfolk Corridor, Raleigh, North Carolina, to Norfolk, Virginia.

(14) Heartland Expressway from Denver, Colorado, through Scottsbluff, Nebraska, to Rapid City, South Dakota.

(15) Urban Highway Corridor along M-59 in Michigan.

(16) Economic Lifeline Corridor along I-15 and I-40 in California, Arizona, and Nevada.

(17) Route 29 Corridor from Greensboro, North Carolina, to the District of Columbia.

(18) Corridor from Indianapolis, Indiana, to Memphis, Tennessee, via Evansville, Indiana.

(19) United States Route 395 Corridor from the United States-Canadian border to Reno, Nevada.

(20) United States Route 59 Corridor from Laredo, Texas, through Houston, Texas, to the vicinity of Texarkana, Texas.

(21) United States Route 219 Corridor from Buffalo, New York, to the intersection of United States Route 17 in the vicinity of Salamanca, New York.

(d) INCLUSION ON NHS.—The Secretary shall include all corridors identified in subsection (c) on the proposed National Highway System submitted to Congress under section 103(b)(3) of title 23, United States Code.

(e) PROVISIONS APPLICABLE TO CORRIDORS.—

(1) LONG-RANGE PLAN.—The Secretary, in cooperation with the affected State or States, may prepare a long-range plan for the upgrading of each corridor to the appropriate standard for highways on the National Highway System. Each such plan may include a plan for developing the corridor and a plan for financing the development.

(2) FEASIBILITY STUDIES.—The Secretary, in cooperation with the affected State or States, may prepare feasibility and design studies, as necessary, for those corridors for which such studies have not been prepared. A feasibility study may be conducted under this subsection with respect to the corridor described in subsection (c)(2), relating to Avenue of the Saints, to determine the feasibility of an adjunct to the Avenue of the Saints serving the southern St. Louis metropolitan area and connecting with I-55 in the vicinity of Route A in Jefferson County, Missouri.

(3) CERTIFICATION ACCEPTANCE.—The Secretary may discharge any of his responsibilities under title 23, United States Code, relative to projects on a corridor identified under subsection (c), upon the request of a State, by accepting a certification by the State in accordance with section 117 of such title.

(4) ACCELERATION OF PROJECTS.—To the maximum extent feasible, the Secretary may use procedures for acceleration of projects in carrying out projects on corridors identified in subsection (c).

(f) HIGH PRIORITY SEGMENTS.—Highway segments of the corridors referred to in subsection (c) which are described in this subsection are high priority segments eligible for assistance under this section. Subject to subsection (g)(2), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out a project on each such segment the amount listed for each such segment:

Appropriation authorization.

	CITY/STATE	HIGH PRIORITY CORRIDORS	AMOUNT in millions
1.	Pennsylvania	For upgrading U.S. 220 High Priority and the Appalachian Thruway Corridor between State College and I-80	50.7
2.	Alabama, Georgia, Mississippi, Tennessee	Upgrading of the East-West Corridor along Rt. 72	25.4
3.	Missouri	Improvement of North-South Corridor along Highway 71, Southwestern, MO	3.6
4.	Arkansas	For construction of Highway 412 from Siloam Springs to Springdale, Arkansas as part of Highway 412 East-West Corridor	34.0

	CITY/STATE	HIGH PRIORITY CORRIDORS	AMOUNT in millions
5.	Arkansas	For construction of Highway 412 from Harrison to Springdale, Arkansas as part of the Highway 412 East-West Corridor	56.0
6.	Pennsylvania	To improve U.S. 220 to a 4-lane limited access highway from Bald Eagle northward to the intersection of U.S. 220 and U.S. 322	148.0
7.	S. Dakota/Nebraska	Conduct a feasibility study of expressway from Rapid City, S. Dakota to Scotts Bluff, Nebraska	0.64
8.	Alabama	Construction of Appalachian Highway Corridor X from Corridor V near Fulton, Mississippi to U.S. 31 at Birmingham, Alabama as part of Appalachian Highway X Corridor Project	59.2
9.	Alabama	For construction of a portion of Appalachian Development Corridor V from Mississippi State Line near Red Bay, Alabama to the Tennessee State Line north of Bridgeport, Alabama	25.4
10.	West Virginia	Construction of Shawnee Project from 3-Corner Junction to I-77 as part of I-73/74 Corridor project	4.5
11.	West Virginia	Widening U.S. Rt. 52 from Huntington to Williamson, W. Virginia as part of the I-73/74 Corridor project	100.0
12.	West Virginia	Replacement of U.S. Rt. 52 from Williamson, W. Virginia to I-77 as part of the I-73/74 Corridor project	14.0
13.	North Carolina/Virginia	For Upgrading I-64 and Route 17 Virginia and constructing a new highway from Rocky Mount to Elizabeth City, North Carolina as part of the Raleigh-Norfolk High Priority Corridor Improvements	17.8
14.	Arkansas	Construction of Highway 71 between Fayetteville and Alma, Arkansas as part of the North-South High Priority Corridor	100.0
15.	Arkansas/Texas	For construction of Highway 71 from Alma, Arkansas to Louisiana border	70.0
16.	Michigan	To widen a 60 mile portion of highway M-59 from MacComb County to I-96 in Howell County, Michigan	29.6
17.	South Dakota, Colorado, Nebraska	To improve the Heartland Expressway from Rapid City, South Dakota to Scotts Bluff, Nebraska	29.6
18.	Indiana	To construct a 4-lane highway from Lafayette to Ft. Wayne, Indiana, following existing Indiana 25 and U.S. 24	9.5

	CITY/STATE	HIGH PRIORITY CORRIDORS	AMOUNT in millions
19.	Ohio/Indiana	Conduct feasibility and economic study to widen Rt. 24 from Ft. Wayne, Indiana to Toledo, Ohio as part of the Lafayette to Toledo Corridor	0.32
20.	California, Nevada, Arizona	For improvements on I-15 and I-40 in California, Nevada and Arizona ($10,500,000 of which shall be expended on the Nevada portion of the corridor, including the I-15/U.S. 95 interchange)	59.2
21.	Louisiana	To improve the North-South Corridor from Louisiana border to Shreveport, Louisiana	29.6
22.	Missouri, Iowa, Minnesota	For improvements for Avenue of the Saints from St. Paul, Minnesota to St. Louis, Missouri	118.0
24.	Various States	I-66 Transamerica Highway Feasibility study	1.0
25.	Kentucky, Tennessee, Virginia	To improve Cumberland Gap Tunnel and for various associated improvements as part of U.S. 25E Corridor, except that the allocation percentages under section 1105(g)(2) of this section shall not apply to this project after fiscal year 1992	72.4
26.	Indiana, Kentucky, Tennessee	To improve the Bloomington, Indiana, to Newberry, Indiana, segment of the Indianapolis, Indiana, to Memphis, Tennessee, high priority corridor	23.7
27.	Washington	For improvements on the Washington State portion of the U.S. 395 corridor from the U.S.-Canadian border to Reno, Nevada	54.5
28.	Virginia	Construction of a bypass of Danville, Virginia, on Route 29 Corridor	17.0
29.	Arkansas	Highway 412 from Harrison to Mt. Home	20.0
30.	New York	Improvements on Route 219 between Springville to Ellicottville in New York State	9.5

(g) PROVISIONS RELATING TO HIGH PRIORITY SEGMENTS.—

(1) DETAILED PLANS.—Each State in which a priority segment identified under subsection (f) is located may prepare a detailed plan for completion of construction of such segment and for financing such construction.

(2) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by subsection (f) for each high priority segment authorized by subsection (f) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(3) FEDERAL SHARE.—The Federal share payable on account of any project under subsection (f) shall be 80 percent of the cost thereof.

(4) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary may delegate responsibility for construction of a project or projects under subsection (f) to the State in which such project or projects are located upon request of such State.

(5) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this subsection—

(A) has obligated all funds allocated under this subsection for construction of such project; and

(B) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this subsection.

(6) APPLICABILITY OF TITLE 23.—Funds authorized by subsection (f) and subsection (h) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under subsection (f) shall be determined in accordance with this subsection and such funds shall remain available until expended. Funds authorized by subsection (f) shall not be subject to any obligation limitation.

(7) STATE PRIORITY FOR HIGH PRIORITY SEGMENTS.—Section 105 of title 23, United States Code, as amended by this Act, is further amended by adding at the end the following new subsection:

"(k) PRIORITY FOR HIGH PRIORITY SEGMENTS OF CORRIDORS OF NATIONAL SIGNIFICANCE.—In selecting projects for inclusion in a program of projects under this section, the State may give priority to high priority segments of corridors identified under section 1105(f) of the Intermodal Surface Transportation Efficiency Act of 1991. In approving programs of projects under this section, the Secretary may give priority of approval to, and expedite construction of, projects to complete construction of such segments.".

California.

(8) SPECIAL RULE.—Amounts allocated by subsection (f) to the State of California for improvements on I-15 and I-40 shall not be subject to any State or local law relating to apportionment of funds available for the construction or improvement of highways.

(h) AUTHORIZATION FOR FEASIBILITY STUDIES.—There is authorized to be appropriated to the Secretary out of the Highway Trust Fund (other than the Mass Transit Account) $8,000,000 per fiscal year for each of the fiscal years 1992 through 1997 to carry out feasibility and design studies under subsection (e)(2).

(i) REVOLVING LOAN FUND.—

(1) ESTABLISHMENT.—The Secretary may establish a Priority Corridor Revolving Loan Fund.

(2) ADVANCES.—The Secretary shall make available as repayable advances amounts from the Revolving Loan Fund to States for planning and construction of corridors listed in subsection

(c). In making such amounts available, the Secretary shall give priority to segments identified in subsection (f).

(3) REPAYMENT OF ADVANCES.—The amount of an advance to a State in a fiscal year under paragraph (2) may not exceed the amount of a State's estimated apportionments for the National Highway System for the 2 succeeding fiscal years. Advances shall be repaid (A) by reducing the State's National Highway System apportionment in each of the succeeding 3 fiscal years by ⅓ of the amount of the advance, or (B) by direct repayment. Repayments shall be credited to the Priority Corridor Revolving Loan Fund.

(4) AUTHORIZATION.—There is authorized to be appropriated to the Secretary, out of the Highway Trust Fund (other than the Mass Transit Account), $40,000,000 per fiscal year for each of fiscal years 1993 through 1997 to carry out this subsection.

SEC. 1106. RURAL AND URBAN ACCESS PROJECTS.

(a) RURAL ACCESS PROJECTS.—

(1) PURPOSE.—The purpose of this subsection is to provide funds for projects that ensure better rural access and that promote economic development in rural areas.

(2) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out rural access projects described in this paragraph. Subject to paragraph (3), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out each such project the amount listed for each such project:

	CITY/STATE	RURAL ACCESS	AMOUNT in millions
1.	Cadiz, Ohio	Improvements of Short Creek Highway from Cadiz, Ohio to Rayland, Ohio	2.5
2.	Boger City, North Carolina	Construction of 4-lane divided highway along Highway 321 to Boger City, NC to NC 127 South	14.2
3.	Utica, New York	Improvement of the Utica North/South Arterial	9.9
4.	Oneida County, New York	Upgrade a highway to 4 lanes in Oneida County, New York	8.0
5.	Southern, Oklahoma	Widening of U.S. 70	0.24
6.	Southern, Oklahoma	Construction of a bridge and approaches at Pennington Creek, OK	1.0
7.	Johnsonburg, Pennsylvania	Relocation of a 2-lane highway from Center Street to PA Rt. 255 along U.S. 219, Johnsonburg Bypass	14.0
8.	Pennsylvania	Construction of truck driving lanes and safety improvements on U.S. 219 between I-80 and the NY State Line	26.0
9.	East St. Louis, Illinois	Feasibility study for 4-lane Access Road to Jefferson Memorial Park	0.24

	CITY/STATE	RURAL ACCESS	AMOUNT in millions
10.	Illinois	To conduct an Environmental Impact Study & Design Study on a 58-mile stretch of U.S. 67 corridor from Alton, IL to Jacksonville, IL	2.5
11.	Venice, Illinois	For rehabilitation of McKinley Bridge near Venice, IL	5.9
12.	Decatur, Alabama	Project for replacement of Keller Memorial Bridge, Decatur, AL	12.7
13.	Lenoir City, Tennessee	Feasibility Study on Fort Loudon Dam Bridge on U.S. Highway 231 in Lenoir City, TN	0.5
14.	Blount City, Tennessee	Improvement of U.S. Highway #411 in Monroe and Blount Counties, TN	15.7
15.	Missouri	For improvements of Highway 60 in New Madrid, Stoddard, Carter and Butler Counties, MO	21.7
16.	Southern, Missouri	Improvement of Rt. 65 through Greene, Christian and Taney Counties, MO	14.1
17.	Lake Charles, Louisiana	Construction of roads and bridge to provide access to Rose Bluff Industrial Area, Lake Charles, LA	4.1
18.	Louisiana	For improvement and extension of Ambassador Caffery Parkway in Louisiana	14.9
19.	Ohio	Construction of U.S. Rt. 68 Bypass in Clark, Champaign and Logan Counties	15.8
20.	Aliquippa, Pennsylvania	For various 3-R Projects in Aliquippa, PA	12.8
21.	Riverton, Kansas	Construction of a new highway from Riverton, KS to Interstate 44 in Missouri	13.1
22.	North Minnesota	Construction and reconstruction of Forest Highway 11 connecting Aurora-Hoyt Lakes and Silver Bay, MN	9.5
23.	Richfield, Minnesota	77th Street Reconstruction Project, Richfield, MN	11.6
24.	Mississippi	Improvements on Highway 84 in Franklin and Lincoln Counties, MS	9.5
25.	Mississippi	Upgrading of U.S. Highway 98 from County line of Pike and Waltham Counties, MS to Lamar County, MS	0.4
26.	Mississippi	Upgrading Highway 61 from Natchez, MS to Louisiana State line	0.35
27.	Mississippi	Upgrading Highway 84 from Brookhaven, MS to U.S. 49 in Collins, MS	2.1
28.	Chattahoochee, Florida	Construction of Mosquito Creek Bridge	2.4
29.	Florida	To upgrade State Rt. 71 from State Rt. 10 to State Rt. 8	2.9
30.	Florida	To upgrade Florida State Rt. 267 from State Rt. 8 to State Rt. 10	4.7
31.	Illinois	Tollway feasibility study (East St. Louis to Carbondale, IL)	0.32
32.	Mt. Vernon, Illinois	Extension of 34th Street from IL Rt. 15 to County Road 10	0.96

	CITY/STATE	RURAL ACCESS	AMOUNT in millions
33.	Illinois	Reconstruction of Feather Trail Road from Ullin Road Interchange to Rt. 37, Pulaski County, IL	1.1
34.	Illinois	Resurfacing IL Rt. 1 from Cave-In-Rock to north of Omaha	1.8
35.	Williamson County, Illinois	Upgrading IL Rt. 13 in Williamson County, IL	7.8
36.	Saline County, Illinois	For improvements to Rt. 13 from Williamson-Saline County line to Harrisburg, IL	4.0
37.	Winchester, New Hampshire	Replacement of Winchester Bridge, Winchester, NH	0.8
38.	Hanover, New Hampshire	Ledyard Bridge reconstruction	7.8
39.	Asheville, North Carolina	U.S. 19-23 improvement project, Asheville, NC	11.1
40.	Niles, Ohio	Belmont Street Bridge Replacement, Niles, OH	1.2
41.	Struthers, Ohio	Bridge Street Bridge replacement, Struthers, OH	1.2
42.	Niles, Ohio	South Main Street Bridge replacement, Niles, OH	2.5
43.	St. Joseph County, Michigan	U.S. 131, St. Joseph County, MI	0.5
44.	Berrien County, Michigan	U.S. 31 relocation, Berrien County, MI	17.4
45.	Holland, Michigan	U.S. 31 upgrade, Holland, Ottawa County, MI	1.3
46.	North Carolina	I-85 Interchange improvement at State Route 1103 Granville County, NC	1.7
47.	Manchester, New Hampshire	Manchester Airport Road improvements	4.0
48.	New Hampshire	Wetlands mitigation package for New Hampshire Rt. 101/51	10.0
49.	Arkansas	To improve U.S. 65 from Harrison, Arkansas to Missouri Line	38.0
50.	Arkansas	To improve Phoenix Avenue in the vicinity of the Ft. Smith Airport, Ft. Smith, Arkansas	7.9
51.	Arkansas	To study bypass alternatives for U.S. 71 in the vicinity of Bella Vista, Arkansas	3.0
52.	Bedford Springs, Pennsylvania	To construct an access road along Old U.S. 220 to the Springs Project and to construct other facilities to facilitate movement of traffic within the site and construction of a parking facility to be associated therewith	19.7
53.	DeValls Bluff, Arkansas	Construction of a replacement bridge across the White River	2.5
54.	Jonesboro, Arkansas	Complete construction of 3 interchanges on the Highway 63 Bypass at Jonesboro	5.7
55.	Brevard County, Florida	Design and engineer improvements for State Rd. 3 between State Rd. 520 and State Rd. 528	0.16
56.	Louisiana	For construction of a new road from an area in the vicinity of I-55 to Alexandria, Louisiana	1.7

	CITY/STATE	RURAL ACCESS	AMOUNT in millions
57.	Beaumont, Texas	Widen Highway FM-364 from a 2-lane to a 4-lane road	10.4
58.	Farmington Hills, Michigan	To widen 12-mile road corridor in the vicinity of Farmington Hills, Michigan	2.5
59.	Laredo, Texas	Expand capacity of 2-lane highway, construct interchanges and connector highway	7.4
60.	Montewma, Colorado	Upgrade farm to market road serving Ute Indian Reservation	2.9
61.	Lubbock, Texas	Initiate feasibility and route studies and preliminary engineering and design for highway to connect Lubbock with Interstate 20	2.9
62.	Rosenberg, Texas	To purchase right-of-way for Highway 36 Bypass West of Rosenberg, Texas	0.9
63.	Angleton, Texas	For various activities associated with relocation of Highway 288 in vicinity of Angleton, Texas	0.9
64.	Mentor, Ohio	For construction of an interchange on State Rt. 615 at I-90 in Mentor, Ohio	4.7
65.	W. Central, Illinois	For widening of U.S. 34 between Burlington, Iowa and Monmouth, Illinois	1.9
66.	Illinois	To make improvements including construction of a bridge on U.S. 67 in NW Illinois	2.4
67.	Monongahela Valley, Pennsylvania	For construction of southernmost extension of the Monongahela Expressway	14.0
68.	Dauphin County, Pennsylvania	Design, acquire right-of-way and reconstruct 5.1 miles of 4-lane divided highway from Dauphin Borough to Speeceville, Pennsylvania	12.0
69.	Rutherford County, Tennessee	Replace existing bridge over the west fork of the Stone's River including a 5-foot elevated walkway	0.8
70.	Wayne County, New York	To improve Rt. 104 from Furnace Road to Pound Road in the Wayne County Area of New York	6.4
71.	Chautauqua County, New York	Construct 2 additional expressway lanes from Chautauqua Lake Bridge to Pennsylvania Border	17.0
72.	North Carolina	To reimburse the State of North Carolina for construction and repair of the Bonner Bridge, North Carolina	3.0
73.	North Carolina	Construct interstate link between I-95 and I-40 in vicinity of Wilson and Goldsboro, North Carolina	8.9
74.	Bossier City, Louisiana	To study grade separations along 10 miles of KC Railroad along U.S. 71	0.16

	CITY/STATE	RURAL ACCESS	AMOUNT in millions
75.	Pennsylvania	Widen 14-mile segment of U.S. 15 from 2 to 4 lanes	13.8
76.	Overland Park, Kansas	I-435 Interchange Project	4.1
77.	Fairmont, West Virginia	Riverside Expressway improvements	5.3
78.	Washington	State Rt. 14 Improvement Projects, Columbia River Gorge, Washington	8.6
79.	Pennsylvania	Pennsylvania Industrial Park access, Washington County, Pennsylvania	6.3
80.	Pennsylvania	Chadville Improvement Project, Southern Fayette County, Pennsylvania	2.4
81.	Pennsylvania	U.S. Rt. 219 Meyersdale Bypass	48.0
82.	Pennsylvania	U.S. Rt. 22 Improvements: Monroeville to Ebansburg	30.3
83.	Pennsylvania	Laurel Valley Expressway, Blairsville, Pennsylvania	5.0
84.	Brownsville, Texas	Brownsville Railroad Relocation Project	6.7
85.	South Carolina	Southern Connector Highway, Greenville County, South Carolina	3.6
86.	Ohio	Rt. 18 Bypass Study, Medina, Ohio	0.4
87.	Ohio	U.S. Rt. 250 Bypass Study, Norwalk, Ohio	0.4
88.	Mankato, Minnesota	Mankato South Rt. Improvements, Mankato, Minnesota	10.0
89.	Kentucky	U.S. 119 Upgrading, Pike County, KY	7.6
90.	Michigan	U.S. Rt. 127 Upgrading, Jackson County, Michigan	0.8
91.	Eden Prairie & Cologne, Minnesota	U.S. Trunk Highway 212 improvement project, Eden Prairie/Cologne, MN	8.7
92.	Ohio	Rt. 30 extension: East Canton/Minerva, Ohio	5.3
93.	New Mexico	Raton-Clayton Rd., Clayton, New Mexico	9.3
94.	New Mexico	Jicarilla Apache State Road, New Mexico	1.5
95.	Arizona	Turquoise Trail Highway, Navajo County, Arizona	5.9
96.	Pennsylvania	U.S. Rt. 222 Relocation, Lehigh County, Pennsylvania	1.5
97.	Pennsylvania	Pennsylvania Rt. 33 Extension, Northhampton County, Pennsylvania	16.8
98.	Kentucky	Highway 92 Relocation Study, South Central Kentucky	0.1
99.	Kentucky	U.S. 27 Improvements, Jessamine County, Kentucky	9.2
100.	North Carolina	U-2519/X-2 Highways, Cumberland, North Carolina	15.9
101.	Missouri	Adams Dairy Parkway Project, Blue Springs, Missouri	1.5
102.	Lawrence, Kansas	Lawrence Circumferential Roadway, Douglas County, Kansas	3.3
103.	Kansas	Oakland Expressway, Eastern Shawnee, Kansas	5.9
104.	Missouri	Highway 63 improvements, Columbia, Missouri/Iowa border	5.9

	CITY/STATE	RURAL ACCESS	AMOUNT in millions
105.	West Virginia	Highway Improvements: Mason County/Kanawha, West Virginia	19.5
106.	Pennsylvania	Warren Street Extension/U.S. 222 Reconstruction, Berks County, Pennsylvania	6.6
107.	Illinois	For construction of the Alton Bypass from the vicinity of Alton and Godfrey, Illinois	4.4
108.	Iowa	Construct Mason City Bypass, Gerro Gordo County, Iowa	14.8
109.	Prince Edward County, Virginia	A highway improvement project one mile south of Farmville in Prince Edward County, Virginia, to increase from two lanes to four lanes approximately two miles of Route 460. Such project shall connect the existing four lanes of Route 460 approaching the segment from the east and the west. The Secretary of the Army, acting through the Chief of Engineers, is directed, upon request of officials representing Prince Edward County, Virginia, to allow the immediate filling of the Sandy River Reservoir in accordance with the terms and conditions of the permit, without further amendment or modification in any respect, issued by the Department of the Army relating to the reservoir, except that no contingency in such permit pertaining to water demand or use shall become effective or shall be enforced prior to seven years from date of completion of such highway project	4.4
110.	Port Lavaca to Cuero, Texas	Construct upgraded, improved four-lane divided highway	43.9
111.	Parker County, Texas (SH199)	Upgrade existing highway to four-lane divided highway	33.5
112.	Howell County, Missouri	Improve Highway 63	3.6
113.	Louisa, Louisiana	Louisa Bridge replacement, Louisa, LA	9.5
114.	Travis County, Texas	Highway 620 bridge improvement	11.4
115.	Latrobe, Pennsylvania	Ligonier Street Reconstruction	0.8
116.	Carroltown/DuBois, Pennsylvania	U.S. 219 Improvements	4.0
117.	Robinson Township, Pennsylvania	Design Work in Town Center	5.0
118.	West Virginia	Chelyan Bridge Replacement	8.5

(3) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by paragraph (2) for each project authorized by paragraph (2) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(4) FEDERAL SHARE.—The Federal share payable on account of any project under this subsection shall be 80 percent of the cost thereof.

(5) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this subsection to the State in which such project or projects are located upon request of such State.

(6) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this subsection—

(A) has obligated all funds allocated under this subsection for construction of such project; and

(B) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this subsection.

(7) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such 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 shall be determined in accordance with this subsection and such funds shall remain available until expended. Funds authorized by this subsection shall not be subject to any obligation limitation.

(b) URBAN ACCESS AND URBAN MOBILITY PROJECTS.—

(1) PURPOSE.—The purpose of this subsection is to provide funds for projects that enhance urban access and urban mobility.

(2) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out urban access and urban mobility projects described in this paragraph. Subject to paragraph (3), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out each such project the amount listed for each such project:

	CITY/STATE	URBAN ACCESS & MOBILITY	AMOUNT in millions
1.	Santa Ana, California	Bristol Street Project	4.1
2.	Illinois/Missouri	Metro East/St. Louis, Missouri Bridge Feasibility Study	1.0
3.	Beaver/Butler Counties, Pennsylvania	Construction of Crow's Run Expressway from I-79 to PA Rt. 60, Beaver/Butler Counties, PA	3.5
4.	Atlanta, Georgia	Improvement of Martin Luther King Drive	0.8
5.	Chicago, Illinois	Handicapped Accessibility Projects on various Chicago Streets	2.4

	CITY/STATE	URBAN ACCESS & MOBILITY	AMOUNT in millions
6.	Chicago, Illinois	Feasibility study for a road between existing Lake Shore Drive and Indiana Road	0.16
7.	San Jose, California	Improvement of Interchange at Highway 85/Highway 17	35.0
8.	Gilroy, California	For safety improvements on Highway 152 in vicinity of Gilroy, CA	5.9
9.	New York, New York	Improvements on Miller Highway in New York City, NY	15.6
10.	District of Columbia	Construction of missing segments of Eastern and Southern Avenues (Boundary Street Safety Initiative)	6.8
11.	Buffalo, New York	Scajaquada Expressway Classification study	0.24
12.	Buffalo, New York	NY State Thruway relocation study, Buffalo (Niagara), NY	0.24
13.	Joliet, Illinois	For rehabilitation of Houbolt Road from Jefferson Street to Joliet Jr. College and construction and interchange at Houbolt Road and I-80	1.0
14.	Chicago, Illinois	WPA street improvements bounded on the north by 103rd, the east by Stoney Island, the west by Ashland, and the south by the city limits	3.7
15.	Burnham, Illinois	To improve Dolton Avenue between Torrence Avenue and Indiana State Line, Burnham, IL	1.9
16.	Calumet Park, Illinois	Ashland Avenue Bridge replacement	2.1
17.	Harvey, Illinois	Illinois 1 Interchange improvement from U.S. 6 to I-80	2.5
18.	Markham, Illinois	Sibley Boulevard traffic flow improvement from Dixie Highway	3.5
19.	Chicago, Illinois	Illinois 1 intersection improvement, Harvey, IL (intersection at 155th Street)	1.4
20.	Youngstown, Ohio	Center Street Bridge replacement, Youngstown, OH, including Poland Avenue—Shirley Road connector and ramps at I-680	12.2
21.	Lake Porter and LaPort Counties, Indiana and Illinois	Study linkage roads to connect Lake Shore Drive and surrounding facilities	1.0
22.	Indiana	Acquisition of West Lake Corridor Right-of-Way between Munster, IN and Hammond , IN	1.0
23.	Portage, Indiana	Widen Willow Creek Road to 4 lanes	1.5
24.	Hobart, Lake Station and New Chicago, Indiana	Various improvements to Ridge Road to relieve congestion	4.3
25.	Passaic County, New Jersey	To complete construction of Rt. 21 in Passaic County, New Jersey	98.8
26.	Northeastern, New Jersey	To raise 14 bridges over Molly Ann's Brook Northeastern, New Jersey	9.5

	CITY/STATE	URBAN ACCESS & MOBILITY	AMOUNT in millions
27.	Chambersburg, Pennsylvania	To improve the Wayne Avenue—I-81 Interchange and to widen Wayne Avenue to 5 lanes from Kriner Road to Coldbrook Avenue in the vicinity of Chambersburg, Pennsylvania	1.84
28.	Newark, New Jersey	To construct ramps to provide access to I-78	7.2
29.	Newark, New Jersey	To construct a parking facility as part of a multi-modal transportation facility in the vicinity of United Hospitals Medical Center, Newark, New Jersey	4.9
30.	Lawrence, Massachusetts	Study, design, and construct new road service; road and ramps and widen I-495	4.7
31.	Baltimore, Maryland	To improve various roads as part of project "Project Vision" in Baltimore, Maryland	5.0
32.	Bellevue, Washington	Conduct Phase I design study for I-405 interchange at Northeast 8th Street	5.0
33.	Springfield, Illinois	To extend 11th Street from Stevenson Drive to Toronto Road in the vicinity of Springfield, Illinois	8.3
34.	Middlesex, New Jersey	Route 1 widening in Middlesex County, New Jersey from Raritan River to Rahway River	7.4
35.	Perth Amboy & Woodbridge Township, New Jersey	Study whether additional river crossings may be necessary based on condition of 3 existing crossings	2.5
36.	Compton, California	For a grade separation project at W. Alameda Street and the Mealy St. Corridor	6.6
37.	Parsippany, Troy Hills, New Jersey	Construct interchange and ramp improvements for east and west bound traffic on I-280	3.1
38.	Queens, New York	To rehabilitate 39th Street Bridge over rail tracks at the Sunnyside Rail Yard in Queens, New York	10.4
39.	Omaha, Nebraska	For improvements to US Highway 6 (W. Dodge Road) from 86th Street to 118th including the intersection with I-680 in Omaha, Nebraska	5.2
40.	Suffolk County/Long Island, New York	Construct various roadway improvements on 7.1 miles of New York Rt. 112, including, resurfacing, widening, adding turning and parking lanes and improving traffic signals	3.4
41.	San Diego, California	To conduct environmental study on feasibility of constructing 4-lane highway from State Rt. 805 to International border near Otay Mesa	1.0

	CITY/STATE	URBAN ACCESS & MOBILITY	AMOUNT in millions
42.	Sarasota, Florida	To construct a bridge interchange at US 301 and University Parkway in the vicinity of Sarasota, Florida	2.4
43.	Hartford, Connecticut	To rehabilitate Connecticut Rt. 99 South of Hartford, Connecticut	5.0
44.	Hartford, Connecticut	For improved access to the Connecticut River as in I-91 Mitigation Project, Hartford, Connecticut	2.3
45.	Chattanooga, Tennessee	Construct an urban diamond interchange to improve capacity and a connector road	3.1
46.	Commerce, California	To relocate a portion of Atlantic Blvd. in the vicinity of Telegraph Rd. as part of a grade separation project	4.7
47.	Scranton, Pennsylvania	Realign 3,000 feet of N. Scranton Expressway to connect with Mulberry Street	7.2
48.	Long Island, New York	Southern State Parkway Improvement	4.6
49.	New York	Exit 26 Ridge Project Schenectady, New York	5.7
50.	Capital Beltway, Springfield, Virginia	Upgrade interchanges on I-495, including Virginia Mixing Bowl Improvements	7.5
51.	Utah	Expansion of State Rd. 5600 West	3.3
52.	Chicago, Illinois	Right-of-way preservation projects (Eisenhower & Stevenson Connector)	4.8
53.	Chicago, Illinois	Museum of Science & Industry: Various intermodal facilities, Chicago, Illinois	35.0
54.	Chicago, Illinois	Chicago Skyway Bridge, Chicago, Illinois	14.2
55.	Chicago, Illinois	Cermak Road Bridge reconstruction, Chicago, Illinois	9.2
56.	Chicago, Illinois	Roosevelt Rd. and Bridge Improvements, Chicago, Illinois	11.8
56A.	Chicago, Illinois	State Street Mall Improvements, Chicago, Illinois	14.2
57.	Chicago, Illinois	Cicero Avenue Improvements, vicinity of Chicago, Illinois	1.1
58.	Chicago, Illinois	183rd Street Reconstruction, Chicago, Illinois	1.5
59.	Chicago, Illinois	111th Street Reconstruction, Chicago, Illinois	2.5
60.	Chicago, Illinois	111th Street Upgrade: Cicero Avenue to Pulaski Road, Chicago, Illinois	2.5
61.	Chicago, Illinois	111th Street Widening; Central Avenue to Cicero Avenue, Chicago, Illinois	4.7
62.	Muncie, Indiana	State Rd. 67 Widening	10.0
63.	Columbus, Indiana	Columbus Entranceway project, Columbus, Indiana	3.3
64.	New Jersey	Rt. 17/4 Interchange Project, Paramus, New Jersey	5.7
65.	New Jersey	Hackensack Avenue/Kinderkamack Road Bridges over Rt. 4, Hackensack, New Jersey	5.7
66.	Los Angeles	Grade separation projects (3), Los Angeles County, California	7.1

	CITY/STATE	URBAN ACCESS & MOBILITY	AMOUNT in millions
67.	New York	Preservation of Rail Corridor (North Shore Rail Line), Staten Island	10.7
68.	Maryland	Improvement of U.S. Route 1 in Baltimore County, Maryland	11.8
69.	Camden, New Jersey	Renovation of South Jersey Port Corporation's Beckett Street Terminal	8.3
70.	Washington, D.C.	Design and construction of noise barriers along Southeast/Southwest Freeway and Anacostia Freeway in D.C.	4.7
71.	Anaheim, California	Construction of public HOV facilities to provide public access to I-5 in the vicinity of the Anaheim Regional Transportation Intermodal Complex	14.8
72.	Atlanta, Georgia	Construction of I-20 interchange at Lithonia Industrial Boulevard	11.2
73.	Buffalo, New York	The Southtowns Connector Buffalo, New York	8.5
74.	Tucson, Arizona	Veterans Memorial Interchange/Palo Verde Overpass Bridge Replacement	2.4
75.	Providence, Rhode Island	Memorial Boulevard Pedestrian/Traffic Improvements	5.0
76.	Renton, Washington	Houser Way Relocation Expansion	3.0

(3) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by paragraph (2) for each project authorized by paragraph (2) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(4) FEDERAL SHARE.—The Federal share payable on account of any project under this subsection shall be 80 percent of the cost thereof.

(5) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this subsection to the State in which such project or projects are located upon request of such State.

(6) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this subsection—

(A) has obligated all funds allocated under this subsection for construction of such project; and

(B) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this subsection.

(7) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such 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 shall be determined in accordance with this subsection and such funds shall remain available until expended. Funds authorized by this subsection shall not be subject to any obligation limitation.

SEC. 1107. INNOVATIVE PROJECTS.

(a) IN GENERAL.—The purpose of this section is to provide assistance for highway projects demonstrating innovative techniques of highway construction and finance. Each State in which 1 of the projects authorized by subsection (b) is located shall select and use, in carrying out such project, innovative techniques in highway construction or finance. Such techniques may include state-of-the-art technology for pavement, safety, or other aspects of highway construction; innovative financing techniques; or accelerated procedures for construction.

(b) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out the innovative projects described in this subsection. Subject to subsection (c), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out each such project the amount listed for each such project:

	CITY/STATE	INNOVATIVE PROJECTS	AMOUNT in millions
1.	Cadiz, Ohio	Construction of 4-lane Limited Access Highway from Cadiz, OH to Interstate 70 Interchange at St. Clairsville, OH along U.S. Rt. 250	20.0
2.	Maryland	Construction of Durham Road Bridge #75 in Harford County, MD	0.5
3.	Maryland	Construction of a replacement bridge at Furnace Road Bridge #74, Harford County, MD	0.6
4.	Maryland	Construction of a replacement bridge at South Hampton Road Bridge #47, Harford County, MD	1.0
5.	Maryland	Construction of a replacement bridge at Wheel Road Bridge #9, Harford County, MD	1.0
6.	Maryland	Construction of a replacement bridge at Watervale Bridge #63, Harford County, MD	1.1
7.	Baltimore County, Maryland	Replacement Papermill Road Bridge #123 in Cockeysville Area of Baltimore, MD	5.3
8.	Southern, Oklahoma	Testing of effectiveness of recyclable materials on a resurfacing project on U.S. 70 in Southern, OK	2.1
9.	Tulsa, Oklahoma	Upgrade U.S. 75 to Expressway standards, Tulsa, OK	14.0

	CITY/STATE	INNOVATIVE PROJECTS	AMOUNT in millions
10.	Atlanta, Georgia	For various transportation improvements in connection with the 1996 Olympics, including the city of Atlanta advanced traffic management system (IVHS)	58.1
11.	Chicago, Illinois	Computerized infrastructure management systems, Chicago, IL	4.3
12.	Oceanside, California	Construction of A, B, and C segments of State Route 76	14.4
13.	Carlsbad, California	Improvements to the interchange at Palomar Airport Road and Interstate 5	3.4
14.	Danville, Virginia	To replace bridges on Main and Worsham Streets in Danville, VA	10.0
15.	Mokena, Illinois	For construction of Wolf Road to an area between LaPort Road and U.S. Rt. 30 in Mokena, IL	1.4
16.	Frankfort, Illinois	Village of Frankfort Roadway improvement projects	1.3
17.	Plainfield, Illinois	Replacement of E J & E Viaduct over IL Rt. 59 and Dupage River Tributary	1.0
18.	Romeoville, Illinois	Replacement of 135th Street Bridge, Romeoville, IL	5.9
19.	Water Street, Pennsylvania	Construction of a 2 lane bypass around the Borough of Water Street on U.S. 22 of Pennsylvania	8.0
20.	Holidaysburg, Pennsylvania	To relocate U.S. 22 around the Borough of Holidaysburg, Pennsylvania	52.0
21.	Lewistown, Pennsylvania	For safety improvements on the Narrows to eliminate potential problems brought on by rock slides	1.6
22.	Pennsylvania	To relocate U.S. Rt. 22 North of Lewistown, Pennsylvania	58.3
23.	Reedsville, Pennsylvania	For construction of a 4 lane highway between Reedsville and Seven Mountains, Pennsylvania	35.1
24.	Pennsylvania	To relocate section of railroad tracks between Hagerstown, Maryland and Shippensburg, Pennsylvania to eliminate 23 at-grade crossings and to make connection to an existing railroad line	14.4
25.	Roaring Spring, Pennsylvania	To upgrade to 3 lanes by adding a center turning lane a section of Pennsylvania 36 from New U.S. 220 to the intersection at Roaring Spring, Pennsylvania	8.8
26.	Altoona, Pennsylvania	To widen and extend Chestnut Avenue from Altoona to Juniata, Pennsylvania	7.12
27.	Bedford County, Pennsylvania	To widen Rt. 30 from the Narrows in Bedford to Mt. Dallas, Pennsylvania	48.0

	CITY/STATE	INNOVATIVE PROJECTS	AMOUNT in millions
28.	Brevard County, Florida	Design, acquire right-of-way and construct a widened bridge on State Road 3 over the Barge Canal	6.9
29.	Blacksburg, Montgomery County, Virginia	Construction of 6 mile 4 lane highway to demonstrate intelligent/vehicle highway systems	5.9
30.	Mobile, Alabama	For reconstruction of the West Tunnel Plaza Interchange on I-10 from Virginia Street to Mobile River Tunnel, Mobile, Alabama	15.0
31.	Pennsylvania	To widen U.S. Rt. 202 from King of Prussia to Montgomeryville, Pennsylvania	8.9
32.	Galina, Illinois	To conduct environmental, preliminary engineering and design studies to widen a 47 mile stretch of U.S. 20 to 4 lanes	2.0
33.	Areneck County, Michigan	To improve a 12-mile stretch of U.S. 23 between Rt. 13 and Rt. 65, Michigan	4.7
34.	Brooks, Jim Wells, and Live Oak Counties, Texas	To improve, upgrade and widen U.S. 281 to the Mexican Border	27.6
35.	Alabama	To construct a 4-lane access controlled highway to bypass Montgomery, Alabama and connect I-65 and I-85	11.8
36.	North Dakota	To design computerized system to inventory and manage off system bridge repairs or replacement statewide; begin repair activities	8.9
37.	Los Angeles, California	For preliminary work on a project to enhance the capacity of I-5 in Los Angeles and Orange County from the downtown area to the State Rt. 91 interchange in Buena Park	6.7
38.	Mendon, Illinois	To construct 14.8 miles of Highway 336 from Illinois Rt. 61 near Mendon, Illinois to West Point Road	5.0
39.	Bryden, Washington	Construct 3 miles of new and improved highways connecting Clarkston, Washington with Lewiston, Idaho	3.9
40.	Missouri	To widen I-55 between Rt. M and Rt. 67 in Jefferson County, Missouri	5.1
41.	Jefferson County, Missouri	To upgrade 7.9 miles of Missouri Highway 21 in Jefferson County, Missouri	5.1
42.	St. Louis, Missouri	To construct a 4-lane outer beltway connecting I-55 and I-44 in St. Louis and Jefferson County, Missouri	7.6
43.	Hillsborough, Florida	Widen and enhance safety and drainage features of I-4 from Tampa to the Hillsborough County Line	24.5

	CITY/STATE	INNOVATIVE PROJECTS	AMOUNT in millions
44.	Wichita, Kansas	To construct a 6 lane access controlled highway and interchange at Oliver Street	6.6
45.	Brigham City, Utah	To construct an interchange on I-15 at Forest St. in Brigham City, Utah	3.6
46.	Utah	For the upgrading of U.S. 89 in Davis and Weber Counties, Utah	3.0
47.	Grand Rapids, Michigan	For construction of a bypass around Grand Rapids, Michigan connecting I-96 and I-196	6.9
48.	Suffolk County/Long Island, New York	Avoid erecting costly areas through selective black topping through high noise road segments	2.0
49.	Suffolk County, New York	Evaluate suitability of composting and recycling for use on Federal-aid highway medians and perimeters	0.4
50.	Springfield, South Dakota	Plan, engineer and construct a bridge across the Missouri River to connect South Dakota Rt. 37 to Nebraska Highway 12	4.7
51.	Vermillion, South Dakota	Engineer and construct bridge across the Missouri River in the vicinity of Vermillion, South Dakota	3.6
52.	Pennsylvania	Design, engineer and construct 2 exits off Interstate 81 at Wilkes-Barre and Mountaintop, Pennsylvania	16.7
53.	Genesse, Michigan	Widen and improve pavement in Mundy Township, from Baldwin Rd. to Cook Rd.	0.16
54.	Flint, Michigan	Engineer, design and construct improved and widened 5-lane road	0.5
55.	Flint, Michigan	Engineer, design and construct 1.02 miles of 5-lane roadway	0.9
56.	Flint, Michigan	Right-of-way acquisition, relocation and construction of Bristol Road	3.1
57.	Salem, Oregon	To construct the Salem Bypass around Salem, Oregon	6.0
58.	Montgomeryville, Pennsylvania	To improve U.S. 202 from Montgomeryville to Doylestown, Pennsylvania	10.8
59.	Amherst/Erie County, New York	Widen 2 miles of Rt. 263 from 2 lanes to 4 lanes and rehabilitate a 4 mile stretch of Rt. 78	7.6
60.	Idaho	To improve the Bryden Canyon Rd. in Lewiston, Idaho	5.3
61.	Mojave, California	Widen and reconstruct bridge to CALTRANS height standards	1.8
62.	Freemont, Iowa	For construction of Iowa highway #2 from Sidney, Iowa to I-29 in Freemont County, Iowa	8.7
63.	Council Bluffs, Iowa	For a variety of improvements to the Valley View Corridor in Council Bluffs, Iowa	1.0
64.	Indiana	Construct extension of Interstate 69 to link Evansville and Indianapolis, Indiana	3.8

	CITY/STATE	INNOVATIVE PROJECTS	AMOUNT in millions
65.	Aberdeen, Ohio	U.S. 62 Ohio River Bridge	15.5
66.	Jacksonville, Illinois	U.S. 67 Jacksonville Bypass	15.8
67.	Snohomish, Washington	Snohomish County, Washington HOV Lanes	6.5
68.	Portland/S. Portland, Maine	Portland-S. Portland Bridge	134.5
69.	Iowa	Highway 63 Improvements, Waterloo to New Hampton, Iowa	15.1
70.	Brook Park, Ohio	Aerospace Technology Park Access Rd., Brook Park, Ohio	14.2
71.	California	Rt. 156 Hollister Bypass, San Benito, California	0.9
72.	Monterey, California	Rt. 101, Prunedale, California	4.2
73.	New Jersey	Rt. 21 Viaduct, Newark, New Jersey, City of Newark's Project	14.8
74.	New Jersey	Rt. 21 widening, Newark, New Jersey, City of Newark's Project	13.9
75.	North Carolina	U.S. 64 widening in Chatham and Wake Counties, North Carolina	5.3
76.	Tennessee	I-81/Industrial Park South Interchange, Sullivan County, Tennessee	5.8
77.	Tennessee	Foothills Parkway: Pittman Center to Cosby, Tennessee	11.2
78.	Ohio	Kelly Avenue extension, Akron, Ohio	9.5
79.	Exton, Pennsylvania	Exton Bypass, Exton, Pennsylvania	26.8
80.	Alabama	Black Warrier River Bridge, Tuscaloosa County, Alabama	6.4
81.	Brooklyn Park, Minnesota	Highway 610 crosstown project, Brooklyn Park, Minnesota	36.0
82.	California	I-880/Alvarado-Niles Road Interchange, Union City, California	9.5
83.	Merrysville, Washington	Interstate 5 Interchange improvement: 88th Street, Merrysville, Washington	1.9
84.	Myrtle Beach, South Carolina	Carolina Bays Parkway, Myrtle Beach, South Carolina	5.9
85.	Mississippi	U.S. 90 improvements including 6 lane bridge and approaches, Pascagoula, Mississippi	4.3
86.	Bakersfield, California	Rt. 58 Improvements, Bakersfield, California	4.7
87.	Santa Fe Springs, California	Norwalk Blvd. grade separation, Santa Fe Springs	4.7
88.	Hoquiam, Washington	Gray's Harbor Industrial Corridor Bridge, Hoquiam, Washington	4.7
89.	Traverse City, Michigan	Traverse City Bypass, Traverse City, Michigan	4.5
90.	Nevada	Lamoille Highway widening, Elko County, Nevada	2.4
91.	Reno, Nevada	U.S. 395 Extension, in vicinity of Reno, Nevada	14.8
92.	Carson City, Nevada	Carson City Bypass, Carson City, Nevada	7.6
93.	Columbus, Ohio	I-270 North outerbelt widening, Franklin County, Ohio	10.2
94.	St. Thomas, Virgin Islands	Feasibility study of constructing a second road to the west end of the island	1.7
95.	Illinois	DeQuoin Highway Bridge	2.6
96.	Illinois	Tamarack Street Extension	0.6

	CITY/STATE	INNOVATIVE PROJECTS	AMOUNT in millions
97.	Indiana	East Chicago Marina Access Road	8.5
98.	District of Columbia	Hybrid Fuel Cell	3.6
99.	Ohio	Rehabilitation of Bridge on U.S. 224 near State Route 616	1.0
100.	Arkansas	North Belt Freeway Project, Thornton, Arkansas	8.9
101.	Ft. Worth, Texas	I-35 Basswood Interchange, Ft. Worth, Texas	17.8
102.	Illinois	Illinois 17 road replacement, .2 miles west of Splear Road to Illinois 1: 5.3 miles	1.8
103.	Leroy, Illinois	U.S. 150 road replacement, North of Hemlock Street to South of Gilmore Street in Leroy: 1.6 miles	1.0
104.	Ford County, Illinois	U.S. 24 replacement, 1.1 miles east of Forrest to Ford County Line: 8.0 miles	1.8
105.	Illinois	U.S. 24 road replacement: Crescent City to Illinois 1 in Watseka: 6.3 miles	2.5
106.	Emington, Illinois	Emington Spur road replacement Illinois 47 to Emington: 2.9 miles Emington, Illinois	0.65
107.	Illinois	New Lenox Road Improvement	2.5
108.	Illinois	Shorewood Roadway Improvements	1.3
109.	Illinois	Bridge painting of various moveable bridges to prevent rusting, Chicago, Illinois	2.8
110.	Huntington County, Pennsylvania	Jacobs Timber Bridge over Greater Trough Creek	0.35
111.	Chicago, Illinois	Landscaping, resurfacing, repair and replacement of curbs and gutters, bridge cleaning and repair of lights and redesigning and installation of new signs historic 28 mile Boulevard, Chicago, Illinois	5.4
112.	Cadillac, Michigan	Improvements to highway U.S. 131, north of Cadillac	4.2
113.	Durham County, North Carolina	Accelerated construction of a four-lane divided freeway on Route 147	38.3
114.	Corpus Christi to Angleton, Texas	Construct new multi-lane freeway	41.7
115.	Fort Worth, Texas	Construction of an overpass and frontage road at the Fort Worth Hillwood/I-35 interchange	12.7
116.	West Sacramento, California	Construction of Industrial Boulevard Bridge over Sacramento River Barge Canal in West Sacramento, California	8.3
117.	Baltimore County, Maryland	I-695 Improvements in Baltimore County, Maryland	23.9
118.	Hampton Roads, Virginia	I-64 Crossing of Hampton Roads	5.9
119.	Calumet City, Illinois	Reconstruction of 156th Street and 156th Place from Burkham Avenue to State line	1.3

	CITY/STATE	INNOVATIVE PROJECTS	AMOUNT in millions
120.	Frankfort Township, Illinois	Improvements of streets in Frankfort Township	1.0
121.	Matteson, Illinois	I-57 Bridge Improvements	3.6
122.	Illinois	Road Improvement, U.S. 150/Ill. 1 from Belguim to South of Westville	3.8
123.	Illinois	Road Improvement, U.S. 45 from Savoy to Tolono	5.6
124.	Alabama	Patton Island Bridge Project	4.7
125.	Borough of Paulsboro, New Jersey	Construction of a new bridge to improve safety	2.7
126.	Minnesota	Completion of Cross-Range Expressway (Trunk Highway 169)	13.0
127.	Hinckley, Minnesota	Safety and capacity improvements to Trunk Highway 48 and relocation of County Road 134	2.0
128.	Minnesota	Trunk Highway 53, Twig to Trunk Highway 37	9.5
129.	Minnesota	Trunk Highway 169, Grand Rapids to High City	9.0
130.	Minnesota	Trunk Highway 61, Schroeder to Grand Marais	18.0
131.	Wisconsin	Improvements to Highway 41, Oshkosh to Green Bay	41.7
132.	Wisconsin	Improvements to Highway 29, Chippewa Falls to State Trunk Hwy. 73	28.3
133.	Minnesota	Trunk Highway 37 and Hughes Rd.	0.5
134.	Pennsylvania	Route 120 widening in vicinity of Lock Haven	4.0
135.	Pennsylvania	Replace U.S. 15 bridge across Tioga River	3.2
136.	Pennsylvania	Wysox Narrows Rd. (U.S. 6)	3.0
137.	Chicago, Illinois	Improvements on Kennedy Expressway, except that the allocation percentages under this section shall not apply to this project and, in lieu thereof, 1/3 of the funds for such projects shall be available for obligation in each of fiscal years 1992, 1993, and 1994	175.0
138.	South Carolina	Southern Connector Highway improvements in Greenville County; Highway 17 Bridge Replacement Projects over Cooper River, Charleston; Carolina Bays Parkway improvements, Myrtle Beach (funds to be equitably divided among these facilities)	11.0
139.	South Carolina	Rail Corridor Revitalization in Columbia, South Carolina	4.0
140.	Rhode Island	For design and construction of a stormdrain retrofit on I-95 and other highway runoff programs to protect Narragansett Bay	13.0
141.	South Kingstown, Rhode Island	For historic renovation and development of an intermodal center at the Kingston Railroad Station	2.0

	CITY/STATE	INNOVATIVE PROJECTS	AMOUNT in millions
142.	Lincoln and Cumberland, Rhode Island	For historic rehabilitation of the Albion Bridge and Albion Trench Bridge	2.0
143.	Newport, Rhode Island	To develop the marine mode of the intermodal Gateway Transportation Center	6.0
144.	Bristol, Rhode Island	For road improvements in Bristol, Rhode Island	2.0
145.	Pennsylvania	An applied technology demonstration in advanced technology demonstrations in advanced driver information systems, with a special emphasis on display instrumentation and information communications technology, to be carried out in cooperation with the Center for Advanced Design and Communication Arts Technology at the University of the Arts	2.0
146.	Vermont	Construction of a highway from U.S. 7, North of Bennington, Vermont southwest to NY 7 in Hoosick, NY	20.0
147.	Woonsocket, Rhode Island	For construction of Route 99 Extension	1.96
148.	Woonsocket, Rhode Island	For repaving streets in Woonsocket	1.40
149.	Woonsocket, Rhode Island	For improvements to 3 bridges crossing the Blackstone River	0.35
150.	Cranston, Rhode Island	For reconstruction and repaving of Park Avenue, Sockanossett Crossroads, Olney Arnold Road, South Comstock Parkway, Wildflower Drive, Aqueduct Road and Mapleton Street	5.7
151.	Rhode Island	For operating expenses of the Rhode Island Public Transit Authority	18.0
152.	New Hampshire	To study corridor protection for New Hampshire Route 16	2.0
153.	North Conway, New Hampshire	To provide congestion relief on U.S. 302 and New Hampshire Route 16	6.3
154.	Kansas	To widen U.S. 81 7-15 miles Belleville to Concordia	7.0
155.	Kansas	To construct Hutchinson Bypass between U.S. 50 and K-96 Hutchinson, Kansas	24.4
156.	Wyoming	For reconstruction of county roads not on the State Highway System by the Wyoming State Department of Transportation	20.0
157.	Virginia	For the rehabilitation, renovation, reconstruction, resurfacing, safety improvements and modernization on the existing 1,069 mile Interstate system in Virginia to be distributed by the Commonwealth Transportation Board, to the maximum extent possible, on an equitable regional basis	63.5

	CITY/STATE	INNOVATIVE PROJECTS	AMOUNT in millions
158.	Minnesota	Hennepin County, Minnesota Bloomington Ferry Bridge/ C.S.A.H. 18 Replacement Project Bloomington, MN	18.0
159.	Minnesota	Nicollet County, Minnesota C.S.A.H. 41 for roadway stabilization and rockfall control North Mankato, MN	3.0
160.	Minnesota	St. Cloud, Minnesota T.H. 15 bridge across Mississippi River and Interchange with T.H. 10	3.24
161.	Minnesota	Minnesota Safety Initiative Program ($2 million to demonstrate the safety benefits of retoreflective pavement markings and signs, especially for nighttime and older drivers; $1 million to demonstrate the safety and environmental benefits of elastomer modified asphalt in cold weather climates)	3.0
162.	New York, New York	Hell Gate Viaduct: upgrade, repair & paint	55.0
163.	New York, New York	Ferry Landing, Battery Park: Reconstruction of ferry landing within Battery Park	2.0
164.	New York, New York	Foley Square Plaza: Transportation improvements & construction activities for Foley Square Plaza development	5.25
165.	New York, NY	Franklin Delano Roosevelt Drive: To reconstruct & improve several sections of Franklin Delano Roosevelt Drive	10.0
166.	Corning, NY	Corning Bypass Improvements	11.0
167.	Nelson County, North Dakota	Grading & surfacing: from U.S. Highway 2 at Michigan southerly to ND Highway 15 at McVille; and of FAS 3220 from ND 1 to ND 32	8.5
168.	Stutsman County, North Dakota	Surfacing from I-94 north & east through Spiritwood, then north to ND Highway 9	4.0
169.	Stelle/Griggs County, North Dakota	Grading & surfacing of FAS 4612 & FAS 2012 from ND 32 to ND 45	2.9
170.	Grand Forks County, North Dakota	Surfacing of FAS 1822 from FAS 1833 to I-29, & FAS 1812 from FAS 1833 to I-29, & FAS 1833 from FAS 1824 to ND 15	2.6
171.	Richland County, North Dakota	Grading & surfacing from Wahpeton to the Froedtert Malting Plant	0.6
172.	Ward/McHenry County, North Dakota	Grading & surfacing FAS 5158 & FAS 2546 from U.S. 83 to ND 41	4.5
173.	Bottineau County, North Dakota	Grading & surfacing from Bottineau to ND Highway 43	2.4

	CITY/STATE	INNOVATIVE PROJECTS	AMOUNT in millions
174.	McKenzie County, North Dakota	Grading & surfacing of FAS 2750 from U.S. 85 west 12 miles	2.3
175.	Wells County, North Dakota	Grading & surfacing of FAS 5215 from FAS 5208 north to the county line, & from U.S. 52, one mile west of Manfred, north to FAS 5208	2.5
176.	Traill County, North Dakota	Grading & surfacing of FAS 4916 from ND 200 east to the Red River	2.8
177.	Eddy County, North Dakota	Grading & surfacing of: FAS 1404 from U.S. 281 east 10.5 miles & from ND 20 west 5.5 miles; & of FAS 1427 from ND 20 south about 8 miles	2.5
178.	Renville/Ward County, North Dakota	Grading & surfacing, starting at FAS 3809 on the Ward County line south 4 miles & then east 2 miles	0.9
179.	Morton County, North Dakota	Grading & surfacing of FAS 3020 from ND 49 southeasterly to FAS 3033	3.1
180.	Walsh County, North Dakota	Surfacing of FAS 5017 from Lankin south to the Nelson County line & FAS 5022 from Fordville east to ND 18	2.5
181.	Dickey County, North Dakota	Grading & surfacing of FAS 1112 from U.S. 281 east to FAS 1127, FAS 1111 from ND 11 south to FAS 1124, & FAS 1137 from ND 11 north to Guelph	4.0
182.	Burke County, North Dakota	Grading & surfacing of FAS 0717 from Lignite south to ND 50	4.4
183.	Morton County, North Dakota	For a bypass from ND 1806 around the westside of Fort Lincoln State Park	3.2
184.	Rolette County, North Dakota	Grading & surfacing from U.S. 281 around the access loop road in the Int'l. Peace Gardens	1.9
185.	Oliver County, North Dakota	Grading & surfacing of FAS 3331 from ND 200A at Hensler southerly to ND 25, & FAS 3304 from FAS 3331 east to FAS 3339	2.9
186.	Williams County, North Dakota	Grading & surfacing at County Rd. 5 from U.S. 2 southerly to ND 1804	2.5

	CITY/STATE	INNOVATIVE PROJECTS	AMOUNT in millions
187.	Plummer, Idaho	Reconstruct a total of 2.9 miles of SH-5 (FAP-14) beginning at M.P. 0.5 in the City of Plummer in Benewah County to M.P. 1.1, and two additional segments located on Peedee Hill from approximately M.P. 3.6 to M.P. 4.9 and M.P. 5.7 to M.P. 6.7	3.6
188.	Lemhi County, Idaho	Reconstruct an 8.3 mile section of U.S. 93 (FAP-35) in Lemhi County at the Idaho/Montana border. 23 U.S.C. 120(a) shall be applicable to the Federal share payable of the cost of such project	25.6
189.	St. Maries, Idaho	Rehabilitate existing pavement structure for a total of 14.2 miles of Idaho Forest Highway 50, the St. Joe River Road between St. Maries and the Benewah/Shoshone County Line	3.4
190.	Lewiston, Idaho	Construct a new road for a total of 2.4 miles along FAU Route 7344, M.P. 0.0-2.4, in Bryden Canyon, Lewiston	3.9
191.	Bear Lake County, Idaho	Reconstruct a 13.0 mile segment of U.S.-89 (FAP-53) between the communities of Montpelier and Geneva	18.5
192.	Alabama	Improvements to Anniston Eastern Bypass, in the vicinity of U.S. 431 and Alabama State Hwy. 21 north of Anniston to the Golden Springs interchange on I-20	11.0
193.	Corning, New York	Additional funding for Corning Bypass (Route 1), except any excess funds from the $13.4 million in total funding for this project shall be available for construction of two additional expressway lanes from Chautauqua Lake Bridge to Pennsylvania border on Route 17	2.4
194.	Billings, Montana	Construction of the Shilo I-90 Interchange	11.0
195.	Missoula, Montana	Construction of the Missoula Airport I-90 Interchange	7.0
196.	Orlando, Florida	Land & right-of-way acquisition & guideway construction for magnetic limitation project	97.5
197.	Toledo, Ohio	Design & initial construction of a new I-280 Maumee River crossing to replace the Craig Memorial Bridge	37.0
198.	New London-Groton/ Bridgeport/New Haven, Connecticut	Rehabilitate or replace: The Gold Star Bridge over the Thames River I-95 between New London & Groton; the Bridge over the Yellow Mill Channel (Bridgeport); & the Tomlinson Bridge on Rte. 1 over the Quinnipiac River (New Haven)	62.0

	CITY/STATE	INNOVATIVE PROJECTS	AMOUNT in millions
199.	Raleigh/Rocky Mount/ Elizabeth City, North Carolina	Design & Construction of interstate standard highway from Rocky Mount, NC to Elizabeth City, NC, & for the upgrading of I-64 from Raleigh, NC to Rocky Mount, NC, & Rte. 17 from Elizabeth City to Norfolk. A substantial portion of the funding should be used for the Rocky Mount to Elizabeth segment	30.0
200.	Binghamton, New York	A study of the feasibility of rehabilitation of the South Washington Street Bridge in Binghamton, NY, to identify plans & specifications for repair if feasible	0.5
201.	District of Columbia	Advanced composite bridge deck demonstration at Catholic University	0.2
202.	Georgia	For any highway improvement projects eligibile for funding under title 23, United States Code	27.0
203.	Hawaii	For any highway improvement projects eligibile for funding under title 23, United States Code	6.0
204.	Oklahoma	For any highway improvement projects eligibile for funding under title 23, United States Code	59.0

(c) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by subsection (b) for each project authorized by subsection (b) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(d) FEDERAL SHARE.—The Federal share payable on account of any project under this section shall be 80 percent of the cost thereof.

(e) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this section to the State in which such project or projects are located upon request of such State.

(f) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this section—

(1) has obligated all funds allocated under this section for construction of such project; and

(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section.

(g) REPORTS.—Not later than 1 year after completion of a project under this section, the State in which such project is located shall submit to the Secretary a report on the innovative techniques used in carrying out such project and on the results obtained through the use of such techniques.

(h) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such 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 section shall be determined in accordance with this section and such funds shall remain available until expended. Funds authorized by this section shall not be subject to any obligation limitation.

SEC. 1108. PRIORITY INTERMODAL PROJECTS.

(a) PURPOSE.—The purpose of this section is to provide for the construction of innovative intermodal transportation projects.

(b) AUTHORIZATION OF PRIORITY PROJECTS.—The Secretary is authorized to carry out the priority intermodal transportation projects described in this subsection. Subject to subsection (c), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out each such project the amount listed for each such project:

	CITY/STATE	INTERMODAL PROJECTS	AMOUNT in millions
1.	Long Beach, California	Interchange at Terminal Island Freeway and Ocean Boulevard	11.8
2.	Wilmington/Los Angeles, California	Widening of Anaheim Street Viaduct	11.8
3.	Wilmington/Los Angeles, California	Grade Separation Project of Pacific Coast Highway near Alameda Suite	11.8
4.	Compton City/Los Angeles County, California	Widening of Alameda Street and grade separation between Rt. 91 and Del Amo Boulevard	11.8
5.	Pennsylvania	Upgrading U.S. Highway 30 from Ohio Border to Pittsburgh International Airport	3.2
6.	Philadelphia, Pennsylvania	Reconstruction of the Old Delaware Avenue Service Road	2.4
7.	Ardmore, Oklahoma	Study of upgraded State Route 53 off U.S. 35 leading to improved Ardmore Airport	2.5
8.	Detroit, Michigan	To relocate Van Dyke Street and construct a road depression under the runway at McNichols Road at the Detroit City Airport ($1,000,000 of the Federal funds shall be for the relocation of Van Dyke Street)	4.3
9.	E. Haven/Wallingford, Connecticut	Improvement of highway and transit projects in East Haven/Wallingford, Connecticut ($8.8 million for East Haven Route 80, $2.4 million for Wallingford I-91, and $0.7 million for Wallingford Oakdale)	10.1

	CITY/STATE	INTERMODAL PROJECTS	AMOUNT in millions
10.	St. Louis, Missouri	Rehabilitation of Eads Bridge, St. Louis, Missouri	8.9
11.	Atlanta, Georgia	Study of 5-Points Intermodal Terminal-Atlanta, Georgia	2.4
12.	Buffalo, New York	Construction of Buffalo River/ Gateway Tunnel Project	20.2
13.	Northern California	Purchase right-of-way and develop a transportation corridor in existing rail right-of-way from Larkspur to Korbel, and Novato to Lombard	15.1
14.	Portland, Oregon	To widen 2.7 miles of U.S. 26 from the Zoo interchange to the Sylvan Interchange to accommodate highway lanes and light rail alignment	14.2
15.	Los Angeles, California	For construction of a multi-modal transit parkway that includes both highway and transit improvements on Santa Monica Blvd. from the San Diego Freeway to Hollywood Freeway, Los Angeles, California	8.9
16.	Jacksonville, Florida	Construct new I-295 Interchange and arterial access road to link Jacksonville's seaport, airport terminals and the interstate	7.1
17.	Las Vegas, Nevada	Conduct environmental studies and preliminary engineering for the western and northern portions of the project linking McCarran International Airport with I-15	3.8
18.	Ontario, California	To complete construction of access roads to Ontario International Airport, Ontario, California	4.7
19.	Allegheny County, Pennsylvania	For an expansion of the existing Martin Luther King, Jr. Busway in the vicinity of Allegheny County, Pennsylvania to serve the Greater Pittsburgh International Airport and adjoining communities	21.7
20.	Pierce County, Washington	Conduct feasibility study and analyze expanding Tacoma Narrows Bridge and other transportation alternatives between State Rd. 16 and I-5	0.7
21.	San Jose, California	Upgrade Rt. 87 from 4 to 6 lanes including 2 HOV Lanes, a new freeway interchange and local circulation system for San Jose International Airport	14.8
22.	American Samoa	Rehabilitate 8 miles of Tau Road from Falessao to Fatuita American Samoa	1.1
23.	Manu'a Island, American Samoa	Rehabilitate and otherwise improve 8 miles of roadway from Ofu to Olosfaga and Slie	1.2
24.	Spokane, Washington	Conduct feasibility study of future transportation needs of Southeastern, Washington	0.8

	CITY/STATE	INTERMODAL PROJECTS	AMOUNT in millions
25.	Detroit, Michigan	To provide for construction of an access road to Detroit Metropolitan Airport including access on the southern end of the airport in order to provide a link to I-275	33.8
26.	Pittsburgh, Pennsylvania	For design and construction of an exclusive busway linking Pittsburgh and the Pittsburgh Airport	9.8
27.	St. Louis, Missouri	To construct a multi-modal transportation facility in St. Louis, Missouri	5.9
28.	Orange & Rockland, New York	To construct park and ride facilities and establish innovative traffic management system measures to promote efficient transportation usage	4.7
29.	Philadelphia, Pennsylvania	To improve mobility for a variety of traffic flow projects in the vicinity of the Pennsylvania Convention Center, Philadelphia, Pennsylvania	9.5
30.	Oxnard, California	To extend Rice Rd., widen Hueneme Rd. and construct Rt. 1/Rice Rd. interchange in order to improve access to Port Hueneme, Oxnard, California	8.9
31.	Los Angeles, California	To improve ground access from Sepulveda Blvd. to Los Angeles, California	8.95
32.	Mt. Vernon, New York	To construct an intermodal facility at the Mt. Vernon Rail Station, Mt. Vernon, New York	7.1
33.	Orange County, New York	I-87/I-84 Stuart Airport Interchange Project	15.7
34.	Mississippi	I-20 Interchange at Pirate	3.4
35.	Jackson, Mississippi	Jackson Airport Connectors	3.1
36.	Palmdale, California	Avenue P8 Improvements	3.6
37.	Lafayette, Indiana	Lafayette Railroad Relocation Project	24.3
38.	Provo, Utah	South Access Rd. to Provo Municipal Airport	1.0
39.	Pennsylvania	Eastside Connector Project/Port of Erie Access, Erie County, Pennsylvania	7.5
40.	Minneapolis, Minnesota	Intermodal Urban connection project, Minneapolis, Minnesota	19.9
41.	Kansas City, Missouri	Bruce Watkins Roadway Improvements	1.4
42.	Missouri	Smith Riverfront Expressway, Jackson/Kansas City, Missouri	12.7
43.	Portland, Oregon	Columbia Slough Intermodal Expansion Bridge, Portland, Oregon	2.1
44.	Ft. Worth, Texas	Ft. Worth Intermodal Center	13.4
45.	Gary, Indiana	Extension of U.S. Highway 12/20 to Lake Michigan	2.2
46.	Carson/Los Angeles Counties, California	Grade Separation Project at Sepulveda Boulevard and Alameda Street	9.5

	CITY/STATE	INTERMODAL PROJECTS	AMOUNT in millions
47.	Williamson, Travis, Caldwell, and Guadalupe, Texas	Feasibility studies (including the effect of closing Bergstrom AFB on traffic corridor), Route studies, preliminary engineering, and right-of-way acquisition for Alternate Route to relieve I-H35 traffic congestion	5.2
48.	Augusta, Georgia	Railroad relocation demonstration project, overpass at 15th Street and Greene Street	5.9
49.	Louisiana	Saint Bernard Intermodal Facility Engineering, Design, and Construction	10.2
50.	Illinois	Interstate 255 Interchange	3.4
51.	Long Beach, California	Long Beach Airport Access	8.5

(c) ALLOCATION PERCENTAGES.—8 percent of the amount allocated by subsection (b) for each project authorized by subsection (b) shall be available for obligation in fiscal year 1992. 18.4 percent of such amount shall be available for obligation in each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(d) FEDERAL SHARE.—The Federal share payable on account of any project under this section shall be 80 percent of the cost thereof.

(e) DELEGATION TO STATES.—Subject to the provisions of title 23, United States Code, the Secretary shall delegate responsibility for construction of a project or projects under this section to the State in which such project or projects are located upon request of such State.

(f) ADVANCE CONSTRUCTION.—When a State which has been delegated responsibility for construction of a project under this section—

(1) has obligated all funds allocated under this section for construction of such project; and

(2) proceeds to construct such project without the aid of Federal funds in accordance with all procedures and all requirements applicable to such project, except insofar as such procedures and requirements limit the State to the construction of projects with the aid of Federal funds previously allocated to it;

the Secretary, upon the approval of the application of a State, shall pay to the State the Federal share of the cost of construction of the project when additional funds are allocated for such project under this section.

(g) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such 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 section shall be determined in accordance with this section and such funds shall remain available until expended. Funds authorized by this section shall not be subject to any obligation limitation.

(h) HIGHWAY AND MASS TRANSIT PROJECTS.—Each project authorized by this section or by any other section of this Act is a highway or an urban mass transportation project.

SEC. 1109. INFRASTRUCTURE AWARENESS PROGRAM.

(a) IN GENERAL.—For the purpose of creating an awareness by the public and State and local governments of the state of the Nation's infrastructure and to encourage and stimulate efforts by the public and such governments to undertake studies and projects to improve the infrastructure, the Secretary is authorized to fund the production of a documentary in cooperation with a not-for-profit national public television station.

(b) FUNDING.—There is authorized to be appropriated to the Secretary to carry out this section $2,000,000 for fiscal years beginning after September 30, 1991, out of the Highway Trust Fund (other than the Mass Transit Account), which shall remain available until expended. All of the provisions of chapter 1 of title 23, United States Code, shall apply to the funds provided under this section. This section shall not be subject to any obligation limitation.

Symms National Recreational Trails Act of 1991.

PART B—NATIONAL RECREATIONAL TRAILS FUND ACT

16 USC 1261 note.

SEC. 1301. SHORT TITLE.

This part may be cited as the "Symms National Recreational Trails Act of 1991".

16 USC 1261.

SEC. 1302. NATIONAL RECREATIONAL TRAILS FUNDING PROGRAM.

(a) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, using amounts available in the Fund, shall administer a program allocating moneys to the States for the purposes of providing and maintaining recreational trails.

(b) STATEMENT OF INTENT.—Moneys made available under this part are to be used on trails and trail-related projects which have been planned and developed under the otherwise existing laws, policies and administrative procedures within each State, and which are identified in, or which further a specific goal of, a trail plan included or referenced in a Statewide Comprehensive Outdoor Recreation Plan required by the Land and Water Conservation Fund Act.

(c) STATE ELIGIBILITY.—

(1) TRANSITIONAL PROVISION.—Until the date that is 3 years after the date of enactment of this part, a State shall be eligible to receive moneys under this Act only if such State's application proposes to use the moneys as provided in subsection (e).

(2) PERMANENT PROVISION.—On and after the date that is three years after the date of the enactment of this Act, a State shall be eligible to receive moneys under this part only if—

(A) a recreational trail advisory board on which both motorized and nonmotorized recreational trail users are represented exists within the State;

(B) in the case of a State that imposes a tax on nonhighway recreational fuel, the State by law reserves a reasonable estimation of the revenues from that tax for use in providing and maintaining recreational trails;

(C) the Governor of the State has designated the State official or officials who will be responsible for administering moneys received under this Act; and

(D) the State's application proposes to use moneys received under this part as provided in subsection (e).

(d) ALLOCATION OF MONEYS IN THE FUND.—

(1) ADMINISTRATIVE COSTS.—No more than 3 percent of the expenditures made annually from the Fund may be used to pay the cost to the Secretary for—

(A) approving applications of States for moneys under this part;

(B) paying expenses of the National Recreational Trails Advisory Committee;

(C) conducting national surveys of nonhighway recreational fuel consumption by State, for use in making determinations and estimations pursuant to this part; and

(D) if any such funds remain unexpended, research on methods to accommodate multiple trail uses and increase the compatibility of those uses, information dissemination, technical assistance, and preparation of a national trail plan as required by the National Trails System Act (16 U.S.C. 1241 et al).

(2) ALLOCATION TO STATES.—

(A) AMOUNT.—Amounts in the Fund remaining after payment of the administrative costs described in paragraph (1), shall be allocated and paid to the States annually in the following proportions:

(i) EQUAL AMOUNTS.—50 percent of such amounts shall be allocated equally among eligible States.

(ii) AMOUNTS PROPORTIONATE TO NONHIGHWAY RECREATIONAL FUEL USE.—50 percent of such amounts shall be allocated among eligible States in proportion to the amount of nonhighway recreational fuel use during the preceding year in each such State, respectively.

(B) USE OF DATA.—In determining amounts of nonhighway recreational fuel use for the purpose of subparagraph (A)(ii), the Secretary may consider data on off-highway vehicle registrations in each State.

(3) LIMITATION ON OBLIGATIONS.—The provisions of paragraphs (1) and (2) notwithstanding, the total of all obligations for recreational trails under this section shall not exceed—

(A) $30,000,000 for fiscal year 1992;
(B) $30,000,000 for fiscal year 1993;
(C) $30,000,000 for fiscal year 1994;
(D) $30,000,000 for fiscal year 1995;
(E) $30,000,000 for fiscal year 1996; and
(F) $30,000,000 for fiscal year 1997.

(e) USE OF ALLOCATED MONEYS.—

(1) PERMISSIBLE USES.—A State may use moneys received under this part for—

(A) in an amount not exceeding 7 percent of the amount of moneys received by the State, administrative costs of the State;

(B) in an amount not exceeding 5 percent of the amount of moneys received by the State, operation of environmental protection and safety education programs relating to the use of recreational trails;

(C) development of urban trail linkages near homes and workplaces;

(D) maintenance of existing recreational trails, including the grooming and maintenance of trails across snow;

(E) restoration of areas damaged by usage of recreational trails and back country terrain;

(F) development of trail-side and trail-head facilities that meet goals identified by the National Recreational Trails Advisory Committee;

(G) provision of features which facilitate the access and use of trails by persons with disabilities;

(H) acquisition of easements for trails, or for trail corridors identified in a State trail plan;

(I) acquisition of fee simple title to property from a willing seller, when the objective of the acquisition cannot be accomplished by acquisition of an easement or by other means;

(J) construction of new trails on State, county, municipal, or private lands, where a recreational need for such construction is shown; and

(K) only as otherwise permissible, and where necessary and required by a State Comprehensive Outdoor Recreation plan, construction of new trails crossing Federal lands, where such construction is approved by the administering agency of the State, and the Federal agency or agencies charged with management of all impacted lands, such approval to be contingent upon compliance by the Federal agency with all applicable laws, including the National Environmental Policy Act (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act (43 U.S.C. 1701 et seq.).

(2) USE NOT PERMITTED.—A State may not use moneys received under this part for—

(A) condemnation of any kind of interest in property;

(B)(i) construction of any recreational trail on National Forest System lands for motorized uses unless such lands—

(I) have been allocated for uses other than wilderness by an approved Forest land and resource management plan or have been released to uses other than wilderness by an Act of Congress, and

(II) such construction is otherwise consistent with the management direction in such approved land and resource management plan; or

(ii) construction of any recreational trail on Bureau of Land Management lands for motorized uses unless such lands—

(I) have been allocated for uses other than wilderness by an approved Bureau of Land Management resource management plan or have been released to uses other than wilderness by an Act of Congress, and

(II) such construction is otherwise consistent with the management direction in such approved management plans; or

(C) 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 either prohibited or has not occurred.

(3) GRANTS.—

(A) IN GENERAL.—A State may provide moneys received under this part to make grants to private individuals,

organizations, city and county governments, and other government entities as approved by the State after considering guidance from the recreational trail advisory board satisfying the requirements of subsection (c)(2)(A), for uses consistent with this section.

(B) COMPLIANCE.—A State that issues such grants under subparagraph (A) shall establish measures to verify that recipients comply with the specified conditions for the use of grant moneys.

(4) ASSURED ACCESS TO FUNDS.—Except as provided under paragraphs (6) and (8)(B), not less than 30 percent of the moneys received annually by a State under this part shall be reserved for uses relating to motorized recreation, and not less than 30 percent of those moneys shall be reserved for uses relating to non-motorized recreation.

(5) DIVERSIFIED TRAIL USE.—

(A) REQUIREMENT.—To the extent practicable and consistent with other requirements of this section, a State shall expend moneys received under this part in a manner that gives preference to project proposals which—

(i) provide for the greatest number of compatible recreational purposes including, but not limited to, those described under the definition of "recreational trail" in subsection (g)(5); or

(ii) provide for innovative recreational trail corridor sharing to accommodate motorized and non-motorized recreational trail use.

This paragraph shall remain effective until such time as a State has allocated not less than 40 percent of moneys received under this part in the aforementioned manner.

(B) COMPLIANCE.—The State shall receive guidance for determining compliance with subparagraph (A) from the recreational trail advisory board satisfying the requirements of subsection (c)(2)(A).

(6) 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 paragraph (4) of this subsection upon application to the Secretary by the State demonstrating that it meets the conditions of this paragraph.

(7) CONTINUING RECREATIONAL USE.—At the option of each State, moneys made available pursuant to this part may be treated as Land and Water Conservation Fund moneys for the purposes of section 6(f)(3) of the Land and Water Conservation Fund Act.

(8) RETURN OF MONEYS NOT EXPENDED.—

(A) Except as provided in subparagraph (B), moneys paid to a State that are not expended or dedicated to a specific project within 4 years after receipt for the purposes stated in this subsection shall be returned to the Fund and shall thereafter be reallocated under the formula stated in subsection (d).

(B) If approved by the State recreational trail advisory board satisfying the requirements of subsection (c)(2)(A), may be exempted from the requirements of paragraph (4) and expended or committed to projects for purposes other-

wise stated in this subsection for a period not to extend beyond 4 years after receipt, after which any remaining moneys not expended or dedicated shall be returned to the Fund and shall thereafter be reallocated under the formula stated in subsection (d).

(f) COORDINATION OF ACTIVITIES.—

(1) COOPERATION BY FEDERAL AGENCIES.—Each agency of the United States Government that manages land on which a State proposes to construct or maintain a recreation trail pursuant to this part is encouraged to cooperate with the State and the Secretary in planning and carrying out the activities described in subsection (e). Nothing in this part diminishes or in any way alters the land management responsibilities, plans and policies established by such agencies pursuant to other applicable laws.

(2) COOPERATION BY PRIVATE PERSONS.—

(A) WRITTEN ASSURANCES.—As a condition to making available moneys for work on recreational trails that would affect privately owned land, a State shall obtain written assurances that the owner of the property will cooperate with the State and participate as necessary in the activities to be conducted.

(B) PUBLIC ACCESS.—Any use of a State's allocated moneys on private lands must be accompanied by an easement or other legally binding agreement that ensures public access to the recreational trail improvements funded by those moneys.

(g) DEFINITIONS.—For the purposes of this section—

(1) ELIGIBLE STATE.—The term "eligible State" means a State that meets the requirements stated in subsection (c).

(2) FUND.—The term "Fund" means the National Recreational Trails Trust Fund established by section 9511 of the Internal Revenue Code of 1986.

(3) NONHIGHWAY RECREATIONAL FUEL.—The term "nonhighway recreational fuel" has the meaning stated in section 9503(c)(6) of the Internal Revenue Code of 1986.

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(5) RECREATIONAL TRAIL.—The term "recreational trail" means a thoroughfare or track across land or snow, used for recreational purposes such as bicycling, cross-country skiing, day hiking, equestrian activities, jogging or similar fitness activities, trail biking, overnight and long-distance backpacking, snowmobiling, aquatic or water activity and vehicular travel by motorcycle, four-wheel drive or all-terrain off-road vehicles, without regard to whether it is a "National Recreation Trail" designated under section 4 of the National Trails System Act (16 U.S.C. 1243).

(6) MOTORIZED RECREATION.—The term "motorized recreation" may not include motorized conveyances used by persons with disabilities, such as self-propelled wheelchairs, at the discretion of each State.

16 USC 1262.

SEC. 1303. NATIONAL RECREATIONAL TRAILS ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established the National Recreational Trails Advisory Committee.

(b) MEMBERS.—There shall be 11 members of the advisory committee, consisting of—

(1) 8 members appointed by the Secretary from nominations submitted by recreational trail user organizations, one each representing the following recreational trail uses:

(A) hiking,
(B) cross-country skiing,
(C) off-highway motorcycling,
(D) snowmobiling,
(E) horseback riding,
(F) all-terrain vehicle riding,
(G) bicycling, and
(H) four-wheel driving;

(2) an appropriate official of government with a background in science or natural resources management, including any official of State or local government, designated by the Secretary;

(3) 1 member appointed by the Secretary from nominations submitted by water trail user organizations; and

(4) 1 member appointed by the Secretary from nominations submitted by hunting and fishing enthusiast organizations.

(c) CHAIRMAN.—The Chair of the advisory committee shall be the government official referenced in subsection (b)(2), who shall serve as a non-voting member.

(d) SUPPORT FOR COMMITTEE ACTION.—Any action, recommendation, or policy of the advisory committee must be supported by at least five of the members appointed under subsection (b)(1).

(e) TERMS.—Members of the advisory committee appointed by the Secretary shall be appointed for terms of three years, except that the members filling five of the eleven positions shall be initially appointed for terms of two years, with subsequent appointments to those positions extending for terms of three years.

(f) DUTIES.—The advisory committee shall meet at least twice annually to—

(1) review utilization of allocated moneys by States;

(2) establish and review criteria for trail-side and trail-head facilities that qualify for funding under this part; and

(3) make recommendations to the Secretary for changes in Federal policy to advance the purposes of this part.

(g) ANNUAL REPORT.—The advisory committee shall present to the Secretary an annual report on its activities.

(h) REIMBURSEMENT FOR EXPENSES.—Nongovernmental members of the advisory committee shall serve without pay, but, to the extent funds are available pursuant to section 1302(d)(1)(B), shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(i) REPORT TO CONGRESS.—Not later than 4 years after the date of the enactment of this Act, the Secretary shall prepare and submit to the Committee on Environment and Public Works of the Senate, and the Committee on Public Works and Transportation of the House of Representatives, a study which summarizes the annual reports of the National Recreational Trails Advisory Committee, describes the allocation and utilization of moneys under this part, and contains recommendations for changes in Federal policy to advance the purposes of this part.

TITLE II—HIGHWAY SAFETY

Highway Safety Act of 1991.

PART A—HIGHWAY SAFETY GRANT PROGRAMS

23 USC 401 note.

SEC. 2001. SHORT TITLE.

This part may be cited as the "Highway Safety Act of 1991".

SEC. 2002. HIGHWAY SAFETY PROGRAMS.

(a) UNIFORM GUIDELINES.—Section 402(a) of title 23, United States Code, is amended by inserting after the third sentence the following: "In addition, such uniform guidelines shall include programs (1) to reduce injuries and deaths resulting from motor vehicles being driven in excess of posted speed limits, (2) to encourage the proper use of occupant protection devices (including the use of safety belts and child restraint systems) by occupants of motor vehicles and to increase public awareness of the benefit of motor vehicles equipped with airbags, (3) to reduce deaths and injuries resulting from persons driving motor vehicles while impaired by alcohol or a controlled substance, (4) to reduce deaths and injuries resulting from accidents involving motor vehicles and motorcycles, (5) to reduce injuries and deaths resulting from accidents involving school buses, and (6) to improve law enforcement services in motor vehicle accident prevention, traffic supervision, and post-accident procedures. If the Secretary does not designate as priority programs those programs described in the preceding sentence, the Secretary shall submit to Congress a report describing the reasons for not prioritizing such programs. The Secretary shall establish a highway safety program for the collection and reporting of data on traffic-related deaths and injuries by the States. Under such program, the States shall collect and report such data as the Secretary may require. The purposes of the program are to ensure national uniform data on such deaths and injuries and to allow the Secretary to make determinations for use in developing programs to reduce such deaths and injuries and making recommendations to Congress concerning legislation necessary to implement such programs. The program shall include information obtained by the Secretary under section 4007 of the Intermodal Surface Transportation Efficiency Act of 1991 and provide for annual reports to the Secretary on the efforts being made by the States in reducing deaths and injuries occurring at highway construction sites and the effectiveness and results of such efforts. The Secretary shall establish minimum reporting criteria for the program. Such criteria shall include, but not be limited to, criteria on deaths and injuries resulting from police pursuits, school bus accidents, and speeding, on traffic-related deaths and injuries at highway construction sites and on the configuration of commercial motor vehicles involved in motor vehicle accidents.".

Reports.

Reports.

Reports.

(b) ADMINISTRATIVE REQUIREMENTS AND USE OF TECHNOLOGY FOR TRAFFIC ENFORCEMENT.—Section 402(b) of such title is amended by adding at the end the following new paragraphs:

"(3) ADMINISTRATIVE REQUIREMENTS.—The Secretary may not approve a State highway safety program under this section which does not—

"(A) provide that the Governor of the State shall be responsible for the administration of the program through a State highway safety agency which shall have adequate

powers and be suitably equipped and organized to carry out, to the satisfaction of the Secretary, such program;

"(B) authorize political subdivisions of the State to carry out local highway safety programs within their jurisdictions as a part of the State highway safety program if such local highway safety programs are approved by the Governor and are in accordance with the minimum standards established by the Secretary under this section;

"(C) except as provided in paragraph (5), provide that at least 40 percent of all Federal funds apportioned under this section to the State for any fiscal year will be expended by the political subdivisions of the State, including Indian tribal governments, in carrying out local highway safety programs authorized in accordance with subparagraph (B); and

"(D) provide adequate and reasonable access for the safe and convenient movement of individuals with disabilities, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks throughout the State.

"(4) WAIVER.—The Secretary may waive the requirement of paragraph (3)(C), in whole or in part, for a fiscal year for any State whenever the Secretary determines that there is an insufficient number of local highway safety programs to justify the expenditure in the State of such percentage of Federal funds during the fiscal year.

"(5) USE OF TECHNOLOGY FOR TRAFFIC ENFORCEMENT.—The Secretary may encourage States to use technologically advanced traffic enforcement devices (including the use of automatic speed detection devices such as photo-radar) by law enforcement officers.".

(c) CONFORMING AMENDMENT.—Section 402(d) of such title is amended by striking "Federal-aid primary" and inserting "National Highway System".

SEC. 2003. HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.

(a) GENERAL AUTHORITY; DRUGS, AND DRIVER BEHAVIOR.—Section 403 of title 23, United States Code, is amended by striking subsections (a) and (b) and inserting the following new subsections:

"(a) AUTHORITY OF THE SECRETARY.—

"(1) IN GENERAL.—The Secretary is authorized to use funds appropriated to carry out this section to engage in research on all phases of highway safety and traffic conditions.

"(2) ADDITIONAL AUTHORITY.—In addition, the Secretary may use the funds appropriated to carry out this section, either independently or in cooperation with other Federal departments or agencies, for—

"(A) training or education of highway safety personnel,

"(B) research fellowships in highway safety,

"(C) development of improved accident investigation procedures,

"(D) emergency service plans,

"(E) demonstration projects, and

"(F) related research and development activities which the Secretary deems will promote the purposes of this section.

"(3) SAFETY DEFINED.—As used in this section, the term 'safety' includes highway safety and highway safety-related research and development, including research and development relating to highway and driver characteristics, crash investigations, communications, emergency medical care, and transportation of the injured.

"(b) DRUGS AND DRIVER BEHAVIOR.—In addition to the research authorized by subsection (a), the Secretary, in consultation with other Government and private agencies as may be necessary, is authorized to carry out safety research on the following:

"(1) The relationship between the consumption and use of drugs and their effect upon highway safety and drivers of motor vehicles.

"(2) Driver behavior research, including the characteristics of driver performance, the relationships of mental and physical abilities or disabilities to the driving task, and the relationship of frequency of driver crash involvement to highway safety.".

(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—Section 403 of such title is amended by striking subsection (f) and inserting the following new subsection:

"(f) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

"(1) IN GENERAL.—For the purpose of encouraging innovative solutions to highway safety problems, stimulating voluntary improvements in highway safety, and stimulating the marketing of new highway safety-related technology by private industry, the Secretary is authorized to undertake, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local governments, colleges, and universities and corporations, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State or the United States. This collaborative research may include crash data collection and analysis; driver and pedestrian behavior; and demonstrations of technology.

"(2) COOPERATIVE AGREEMENTS.—In carrying out this subsection, 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); except that in entering into such agreements, the Secretary may agree to provide not more than 50 percent of the cost of any research or development project selected by the Secretary under this subsection.

"(3) PROJECT SELECTION.—In selecting projects to be conducted under this subsection, the Secretary shall establish a procedure to consider the views of experts and the public concerning the project areas.

"(4) APPLICABILITY OF STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT.—The research, development, or utilization of any technology pursuant to an agreement under the provisions of this subsection, including the terms under which technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980.".

(c) CONFORMING AMENDMENT.—Section 403(c) of such title is amended by striking "subsection (b)" and inserting "subsections (a) and (b)".

SEC. 2004. ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.

(a) IN GENERAL.—Section 410 of title 23, United States Code, is amended to read as follows:

"§ 410. Alcohol-impaired driving countermeasures

"(a) GENERAL AUTHORITY.—Subject to the provisions of this section, the Secretary shall make grants to those States which adopt and implement effective programs to reduce traffic safety problems resulting from persons driving while under the influence of alcohol or a controlled substance. Such grants may only be used by recipient States to implement and enforce such programs. Grants.

"(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under 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 alcohol traffic safety programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991.

"(c) BASIC GRANT ELIGIBILITY.—A State is eligible for a basic grant under this section in a fiscal year only if such State provides for 4 or more of the following:

"(1) Establishes an expedited driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

"(A) when a law enforcement officer has probable cause under State law to believe a person has committed an alcohol-related traffic offense and such person is determined, on the basis of a chemical test, to have been under the influence of alcohol while operating the motor vehicle or refuses to submit to such a test as proposed by the officer, the officer shall serve such person with a written notice of suspension or revocation of the driver's license of such person and take possession of such driver's license;

"(B) the notice of suspension or revocation referred to in subparagraph (A) shall provide information on the administrative procedures under which the State may suspend or revoke in accordance with the objectives of this section a driver's license of a person for operating a motor vehicle while under the influence of alcohol and shall specify any rights of the operator under such procedures;

"(C) the State shall provide, in the administrative procedures referred to in subparagraph (B), for due process of law, including the right to an administrative review of a driver's license suspension or revocation within the time period specified in subparagraph (F);

"(D) after serving notice and taking possession of a driver's license in accordance with subparagraph (A), the law enforcement officer immediately shall report to the State entity responsible for administering drivers' licenses all information relevant to the action taken in accordance with this clause;

"(E) in the case of a person who, in any 5-year period beginning after the date of enactment of this section, 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 the law enforcement officer, the State entity responsible for administering drivers' licenses, upon receipt of 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

"(F) the suspension and revocation referred to under subparagraph (D) shall take effect not later than 30 days after the day on which the person first received notice of the suspension or revocation in accordance with subparagraph (B).

"(2)(A) For each of the first three fiscal years in which a grant is received, any person with a blood alcohol concentration of 0.10 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated; and

"(B) For each of the last two fiscal years in which a grant is received, any person with a blood alcohol concentration of 0.08 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated.

"(3) A statewide program for stopping motor vehicles on a nondiscriminatory, lawful basis for the purpose of determining whether or not the operators of such motor vehicles are driving while under the influence of alcohol.

"(4) 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, or an equivalent amount of non-Federal funds are provided, to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

"(5) An effective system 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.

"(d) AMOUNT OF BASIC GRANTS.—The amount of a basic grant to be made in a fiscal year under this section to a State eligible to receive such grant shall be 65 percent of the amount of funds apportioned to such State in such fiscal year under this section.

"(e) SUPPLEMENTAL GRANTS.—

"(1) BLOOD ALCOHOL CONCENTRATION FOR PERSONS UNDER AGE 21.—A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and provides 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.

"(2) OPEN CONTAINER LAWS.—A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this

section if the State is eligible for a basic grant in the fiscal year and 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—

"(A) as allowed in the passenger area, by persons (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

"(B) 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.

"(3) SUSPENSION OF REGISTRATION AND RETURN OF LICENSE PLATES.—A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and provides for the suspension of the registration of, and the return to such State of the license plates for an individual who—

"(A) has been convicted on more than 1 occasion of an alcohol-related traffic offense within any 5-year period beginning after the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991; or

"(B) has been convicted of driving while his or her driver's license is suspended or revoked by reason of a conviction for such an offense.

A State may provide limited exceptions to such suspension of registration or return of license plates on an individual basis to avoid undue hardship to any individual (including any family member of the convicted individual and any co-owner of the motor vehicle) who is completely dependent on the motor vehicle for the necessities of life. Such exceptions may not result in unrestricted reinstatement of the registration of the motor vehicle, unrestricted return of the license plates of the motor vehicle, or unrestricted return of the motor vehicle.

"(4) MANDATORY BLOOD ALCOHOL CONCENTRATION TESTING PROGRAMS.—A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and 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 an accident resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense.

"(5) DRUGGED DRIVING PREVENTION.—A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and—

"(A) provides for laws concerning drugged driving under which—

"(i) a person shall not drive or be in actual physical control of a motor vehicle while under the influence of alcohol, a controlled substance, a combination of con-

trolled substances, or any combination of alcohol and controlled substances;

"(ii) any person who operates a motor vehicle upon the highways of the State shall be deemed to have given consent to a test or tests of his or her blood, breath, or urine for the purpose of determining the blood alcohol concentration or the presence of controlled substances in his or her body; and

"(iii) the driver's license of a person shall be suspended promptly, for a period of not less than 90 days in the case of a first offender and not less than 1 year in the case of any repeat offender, when a law enforcement officer has probable cause under State law to believe such person has committed a traffic offense relating to controlled substances use, and such person (I) is determined, on the basis of 1 or more chemical tests, to have been under the influence of controlled substances while operating a motor vehicle, or (II) refuses to submit to such a test as proposed by the officer;

"(B) has in effect a law which provides that—

"(i) any person convicted of a first violation of driving under the influence of controlled substances or alcohol, or both, shall receive—

"(I) a mandatory license suspension for a period of not less than 90 days; and

"(II) either an assignment of 100 hours of community service or a minimum sentence of imprisonment for 48 consecutive hours;

"(ii) any person convicted of a second violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a conviction for the same offense shall receive a mandatory minimum sentence of imprisonment for 10 days and license revocation for not less than 1 year;

"(iii) any person convicted of a third or subsequent violation of driving under the influence of controlled substances or alcohol, or both, within 5 years after a prior conviction for the same offense shall—

"(I) receive a mandatory minimum sentence of imprisonment for 120 days; and

"(II) have his or her license revoked for not less than 3 years; and

"(iv) any person convicted of driving with a suspended or revoked license or in violation of a restriction imposed as a result of a conviction for driving under the influence of controlled substances or alcohol, or both, shall receive a mandatory sentence of imprisonment for at least 30 days, and shall upon release from imprisonment receive an additional period of license suspension or revocation of not less than the period of suspension or revocation remaining in effect at the time of commission of the offense of driving with a suspended or revoked license;

"(C) provides for an effective system, as determined by the Secretary, for—

"(i) the detection of driving under the influence of controlled substances;

"(ii) the administration of a chemical test or tests to any driver who a law enforcement officer has probable cause under State law to believe has committed a traffic offense relating to controlled substances use; and

"(iii) in instances where such probable cause exists, the prosecution of (I) those persons who are determined, on the basis of 1 or more chemical tests, to have been operating a motor vehicle while under the influence of controlled substances and (II) those persons who refuse to submit to such a test as proposed by a law enforcement officer; and

"(D) has in effect 2 of the following programs:

"(i) An effective educational program, as determined by the Secretary, for the prevention of driving under the influence of controlled substances.

"(ii) An effective program, as determined by the Secretary, for training law enforcement officers to detect driving under the influence of controlled substances.

"(iii) An effective program, as determined by the Secretary, for the rehabilitation and treatment of those convicted of driving under the influence of controlled substances.

"(6) BLOOD ALCOHOL CONCENTRATION LEVEL PERCENTAGE.—A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and requires that any person with a blood alcohol concentration of .08 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated in each of the first three fiscal years in which a basic grant is received. Grants.

"(7) VIDEO EQUIPMENT FOR DETECTION OF DRUNK AND DRUGGED DRIVERS.—A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section if the State is eligible for a basic grant in the fiscal year and provides a program to acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol or a controlled substance and in effectively prosecuting those persons, and to train personnel in the use of that equipment. Grants.

"(f) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section, and the remainder shall be apportioned among the several States.

"(g) APPORTIONMENT OF FUNDS.—

"(1) FORMULA.—After the deduction under subsection (f), the remainder of the funds authorized to be appropriated to carry out this section shall be apportioned 75 percent in the ratio which the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 percent in the ratio which the public road mileage in each State bears to the total public road mileage in all States.

"(2) DETERMINATION OF PUBLIC ROAD MILEAGE.—For the purposes of this subsection, the term 'public road' means any road under the jurisdiction of and maintained by a public authority and open to public travel. Public road mileage as used in this subsection shall be determined as of the end of the calendar year preceding the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary.

"(3) MINIMUM PERCENTAGE.—The annual apportionment under this paragraph to each State shall not be less than one-half of 1 percent of the total apportionment; except that the apportionments to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less than one-quarter of 1 percent of the total apportionment.

"(4) REAPPORTIONMENT OF NONELIGIBLE STATE FUNDS.—If a State is not eligible for a basic grant or for a supplemental grant under this section in a fiscal year, the amount of funds apportioned to the State in the fiscal year to make such grant shall be reapportioned to the other States eligible to receive such a grant in the fiscal year in accordance with the formula specified in this subsection. The reapportionment shall be made on the first day of the succeeding fiscal year.

"(h) APPLICABILITY OF CHAPTER 1.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, all provisions of chapter 1 of this title that are applicable to National Highway System funds, other than provisions relating to the apportionment formula and provisions limiting the expenditure of such funds to the Federal-aid systems, shall apply to the funds authorized to be appropriated to carry out this section.

"(2) INCONSISTENT PROVISIONS.—If the Secretary determines that a provision of chapter 1 of this title is inconsistent with this section, such provision shall not apply to funds authorized to be appropriated to carry out this section.

"(3) CREDIT FOR STATE AND LOCAL EXPENDITURES.—The aggregate of all expenditures made during any fiscal year by a State and its political subdivisions (exclusive of Federal funds) for carrying out the State highway safety program (other than planning and administration) shall be available for the purpose of crediting such State during such fiscal year for the non-Federal share of the cost of any project under this section (other than one for planning or administration) without regard to whether such expenditures were actually made in connection with such project.

"(4) INCREASED FEDERAL SHARE FOR CERTAIN INDIAN TRIBE PROGRAMS.—In the case of a local highway safety program carried out by an Indian tribe, if the Secretary is satisfied that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of such program, the Secretary may increase the Federal share of the cost thereof payable under this title to the extent necessary.

"(5) TREATMENT OF TERM 'STATE HIGHWAY DEPARTMENT'.—In applying provisions of chapter 1 in carrying out this section, the term 'State highway department' as used in such provisions shall mean the Governor of a State and, in the case of an Indian tribe program, the Secretary of the Interior.

"(i) DEFINITIONS.—For the purposes of this section, the following definitions apply:

"(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning such term has under section 158(c) of this title.

"(2) CONTROLLED SUBSTANCES.—The term 'controlled substances' has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

"(3) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning such term has under section 154(b) of this title.

"(4) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' means any bottle, can, or other receptacle—

"(A) which contains any amount of an alcoholic beverage; and

"(B)(i) which is open or has a broken seal, or

"(ii) the contents of which are partially removed.

"(j) FUNDING FOR FISCAL YEARS 1993-1997.—From sums made available to carry out section 402 of this title, the Secretary shall make available $25,000,000 for each of fiscal years 1993 through 1997 to carry out this section.".

(b) STATES ELIGIBLE FOR GRANTS UNDER SECTION 410 BEFORE DATE OF ENACTMENT.—A State which, before the date of the enactment of this Act, was eligible to receive a grant under section 410 of title 23, United States Code, as in effect on the day before such date of enactment, may elect to receive in a fiscal year grants under such section 410, as so in effect, in lieu of receiving in such fiscal year grants under such section 410, as amended by this Act. 23 USC 410 note.

(c) CONFORMING AMENDMENT.—The analysis for chapter 4 of such title is amended by striking the item relating to section 410 and inserting the following:

"410. Alcohol-impaired driving countermeasures.".

SEC. 2005. AUTHORIZATION OF APPROPRIATIONS.

For purposes of carrying out the provisions of title 23, United States Code, the following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) NHTSA HIGHWAY SAFETY PROGRAMS.—For carrying out section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration $126,000,000 for fiscal year 1992 and $171,000,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997.

(2) NHTSA HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For carrying out section 403 by the National Highway Traffic Safety Administration $44,000,000 for each of the fiscal years 1992 through 1997.

(3) ALCOHOL TRAFFIC SAFETY INCENTIVE GRANT PROGRAM.—For carrying out section 410 of such title $25,000,000 for fiscal year 1992.

SEC. 2006. DRUG RECOGNITION EXPERT TRAINING PROGRAM. 23 USC 403 note.

(a) ESTABLISHMENT.—The Secretary, acting through the National Highway Traffic Safety Administration, shall establish a regional program for implementation of drug recognition programs and for training law enforcement officers (including enforcement officials under the motor carrier safety assistance program) to recognize and identify individuals who are operating a motor vehicle while under

the influence of alcohol or one or more controlled substances or other drugs.

Reports.

(b) ADVISORY COMMITTEE.—The Secretary shall establish a citizens advisory committee that shall report to Congress annually on the progress of the implementation of subsection (a). Members of the committee shall include 1 member of each of the following: Mothers Against Drunk Driving; a narcotics control organization; American Medical Association; American Bar Association; and such other organizations as the Secretary deems appropriate. The committee shall be subject to the provisions of the Advisory Committee Act and shall terminate 2 years after the date of the enactment of this Act.

Termination date.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $4,000,000 for each of fiscal years 1992 through 1997.

(d) DEFINITION.—For purposes of this section, the term "controlled substance" means any controlled substance, as defined under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), whose use the Secretary has determined poses a risk to transportation safety.

SEC. 2007. NATIONAL DRIVER REGISTER ACT AUTHORIZATIONS.

Section 211(b) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended—

(1) by striking "and" the second place it appears; and

(2) by inserting before the period at the end the following: ", and not to exceed $4,000,000 for fiscal year 1992. From sums made available to carry out section 402 of title 23, United States Code, the Secretary shall make available $4,000,000 for each of fiscal years 1993 and 1994 to carry out this section.".

23 USC 402 note.

SEC. 2008. EFFECTIVE DATE; APPLICABILITY.

Except as otherwise provided, this title, including the amendments made by this title, shall take effect on the date of the enactment of this Act, shall apply to funds authorized to be appropriated or made available after September 30, 1991, and shall not apply to funds appropriated or made available on or before such date of enactment.

SEC. 2009. OBLIGATION CEILINGS.

(a) IN GENERAL.—Sums authorized for fiscal year 1992 by sections 2005(1), 2005(3), and 2006(c) of this Act and section 211(b) of the National Driver Register Act of 1982 shall be subject to the obligation limitation established by section 102 of this Act for fiscal year 1992.

23 USC 402 note.

(b) OBLIGATION LIMITATION.—If an obligation limitation is placed on sums authorized to be appropriated to carry out section 402 of title 23, United States Code, for fiscal year 1993 or subsequent fiscal years, any amounts made available out of such funds to carry out sections 2004 and 2006 of this Act and section 211(b) of the National Driver Register Act of 1982 shall be reduced proportionally.

PART B—NHTSA AUTHORIZATIONS AND GENERAL PROVISIONS

National Highway Traffic Safety Administration Authorization Act of 1991. 15 USC 1392 note.

SEC. 2500. SHORT TITLE.

This part may be cited as the "National Highway Traffic Safety Administration Authorization Act of 1991".

SEC. 2501. AUTHORIZATION OF APPROPRIATIONS.

(a) TRAFFIC AND MOTOR VEHICLE SAFETY PROGRAM.—For the National Highway Traffic Safety Administration to carry out the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), there are authorized to be appropriated $68,722,000 for fiscal year 1992, $71,333,436 for fiscal year 1993, $74,044,106 for fiscal year 1994, and $76,857,782 for fiscal year 1995.

(b) MOTOR VEHICLE INFORMATION AND COST SAVINGS PROGRAMS.—For the National Highway Traffic Safety Administration to carry out the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), there are authorized to be appropriated $6,485,000 for fiscal year 1992, $6,731,430 for fiscal year 1993, $6,987,224 for fiscal year 1994, and $7,252,739 for fiscal year 1995.

SEC. 2502. GENERAL PROVISIONS.

(a) DEFINITIONS.—As used in this part—

(1) the term "bus" means a motor vehicle with motive power, except a trailer, designed for carrying more than 10 persons;

(2) the term "multipurpose passenger vehicle" means a motor vehicle with motive power (except a trailer), designed to carry 10 persons or fewer, which is constructed either on a truck chassis or with special features for occasional off-road operation;

(3) the term "passenger car" means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer), designed for carrying 10 persons or fewer;

(4) the term "truck" means a motor vehicle with motive power, except a trailer, designed primarily for the transportation of property or special purpose equipment; and

(5) the term "Secretary" means the Secretary of Transportation.

(b) PROCEDURE.—

(1) IN GENERAL.—Except as provided in paragraph (2), any action taken under section 2503 shall be taken in accordance with the applicable provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.).

(2) SPECIFIC PROCEDURE.—

(A) INITIATION.—To initiate an action under section 2503, the Secretary shall, not later than May 31, 1992, publish in the Federal Register an advance notice of proposed rulemaking or a notice of proposed rulemaking, except that if the Secretary is unable to publish such a notice by such date, the Secretary shall by such date publish in the Federal Register a notice that the Secretary will begin such action by a certain date which may not be later than January 31, 1993 and include in such notice the reasons for the delay. A notice of delayed action shall not be considered agency action subject to judicial review. If the Secretary publishes an advance notice of proposed rulemaking, the Secretary is not required to follow such notice with a notice

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of proposed rulemaking if the Secretary determines on the basis of such advanced notice and the comments received thereon that the contemplated action should not be taken under the provisions of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.), including the provisions of section 103 of such Act (15 U.S.C. 1392), and if the Secretary publishes the reasons for such determination consistent with chapter 5 of title 5, United States Code.

(B) COMPLETION.—

(i) PERIOD.—Action under paragraphs (1) through (4) of section 2503 which was begun under subparagraph (A) shall be completed within 26 months of the date of publication of an advance notice of proposed rulemaking or 18 months of the date of publication of a notice of proposed rulemaking. The Secretary may extend for any reason the period for completion of a rulemaking initiated by the issuance of a notice of proposed rulemaking for not more than 6 months if the Secretary publishes the reasons for such extension. The extension of such period shall not be considered agency action subject to judicial review.

(ii) ACTION.—A rulemaking under paragraphs (1) through (4) of section 2503 shall be considered completed when the Secretary promulgates a final rule or when the Secretary decides not to promulgate a rule (which decision may include deferral of the action or reinitiation of the action). The Secretary may not decide against promulgation of a final rule because of lack of time to complete rulemaking. Any such rulemaking actions shall be published in the Federal Register, together with the reasons for such decisions, consistent with chapter 5 of title 5, United States Code, and the National Traffic and Motor Vehicle Safety Act of 1966.

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(iii) SPECIAL RULE.—

(I) PERIOD.—Action under paragraph (5) of section 2503 which was begun under subparagraph (A) shall be completed within 24 months of the date of publication of an advance notice of proposed rulemaking or a notice of proposed rulemaking. If the Secretary determines that there is a need for delay and if the public comment period is closed, the Secretary may extend the date for completion for not more than 6 months and shall publish in the Federal Register a notice stating the reasons for the extension and setting a date certain for completion of the action. The extension of the completion date shall not be considered agency action subject to judicial review.

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(II) ACTION.—A rulemaking under paragraph (5) of section 2503 shall be considered completed when the Secretary promulgates a final rule with standards on improved head injury protection.

(C) STANDARD.—The Secretary may, as part of any action taken under section 2503, amend any motor vehicle safety standard or establish a new standard under the National

Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381 et seq.).

SEC. 2503. MATTERS BEFORE THE SECRETARY.

The Secretary shall address the following matters in accordance with section 2502:

(1) Protection against unreasonable risk of rollovers of passenger cars, multipurpose passenger vehicles, and trucks with a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less.

(2) Extension of passenger car side impact protection to multipurpose passenger vehicles and trucks with a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less.

(3) Safety of child booster seats used in passenger cars and other appropriate motor vehicles.

(4) Improved design for safety belts.

(5) Improved head impact protection from interior components of passenger cars (i.e. roof rails, pillars, and front headers).

SEC. 2504. RECALL OF CERTAIN MOTOR VEHICLES.

(a) NOTIFICATION OF DEFECT OR FAILURE TO COMPLY.—Section 153 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1413) is amended by adding at the end the following new subsections:

"(d) If the Secretary determines that a notification sent by a manufacturer pursuant to subsection (c) of this section has not resulted in an adequate number of vehicles or items of equipment being returned for remedy, the Secretary may direct the manufacturer to send a second notification in such manner as the Secretary may by regulation prescribe.

"(e)(1) Any lessor who receives a notification required by section 151 or 152 pertaining to any leased motor vehicle shall send a copy of such notice to the lessee in such manner as the Secretary may by regulation prescribe.

"(2) For purposes of this subsection, the term 'leased motor vehicle' means any motor vehicle which is leased to a person for a term of at least four months by a lessor who has leased five or more vehicles in the twelve months preceding the date of the notification.".

(b) LIMITATION ON SALE OR LEASE OF CERTAIN VEHICLES.—Section 154 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1414) is amended by adding at the end the following:

"(d) If notification is required under section 151 or by an order under section 152(b) and has been furnished by the manufacturer to a dealer of motor vehicles with respect to any new motor vehicle or new item of replacement equipment in the dealer's possession at the time of notification which fails to comply with an applicable Federal motor vehicle safety standard or contains a defect which relates to motor vehicle safety, such dealer may sell or lease such motor vehicle or item of replacement equipment only if—

"(1) the defect or failure to comply has been remedied in accordance with this section before delivery under such sale or lease; or

"(2) in the case of notification required by an order under section 152(b), enforcement of the order has been restrained in

an action to which section 155(a) applies or such order has been set aside in such an action.

Nothing in this subsection shall be construed to prohibit any dealer from offering for sale or lease such vehicle or item of equipment.".

SEC. 2505. STANDARDS OF COMPLIANCE TEST PROGRAM.

Section 103 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1392) is amended by adding at the end the following:

"(j) The Secretary shall establish and periodically review and update on a continuing basis a 5-year plan for testing Federal Motor Vehicle Safety Standards that are capable, in the Secretary's judgment, of being tested. In developing the plan and establishing testing priorities, the Secretary shall take into consideration such factors as the Secretary deems appropriate, consistent with the purposes of this Act and the Secretary's other responsibilities under this Act. The Secretary may at any time adjust such priorities to address matters the Secretary deems of greater priority. The initial plan may be the 5-year plan for compliance testing in effect on the date of enactment of this subsection.".

SEC. 2506. REAR SEATBELTS.

The Secretary shall expend such portion of the funds authorized to be appropriated under the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.), for fiscal year 1993, as the Secretary deems necessary for the purpose of disseminating information to consumers regarding the manner in which passenger cars may be retrofitted with lap and shoulder rear seatbelts.

SEC. 2507. BRAKE PERFORMANCE STANDARDS FOR PASSENGER CARS.

Not later than December 31, 1993, the Secretary, in accordance with the National Traffic and Motor Vehicle Safety Act of 1966, shall publish an advance notice of proposed rulemaking to consider the need for any additional brake performance standards for passenger cars, including antilock brake standards. The Secretary shall complete such rulemaking (in accordance with section 2502(b)(2)(B)(ii)) not later than 36 months from the date of initiation of such advance notice of proposed rulemaking. In order to facilitate and encourage innovation and early application of economical and effective antilock brake systems for all such vehicles, the Secretary shall, as part of the rulemaking, consider any such brake system adopted by a manufacturer.

SEC. 2508. AUTOMATIC CRASH PROTECTION AND SAFETY BELT USE.

(a) AMENDMENT OF STANDARD.—

(1) SPECIFICATIONS.—Notwithstanding any other provision of law or rule, the Secretary shall by September 1, 1993, promulgate, in accordance with the National Traffic and Motor Vehicle Safety Act of 1966 (to the extent such Act is not in conflict with the provisions of this section), an amendment to Federal Motor Vehicle Safety Standard 208 issued under such Act to provide that the automatic occupant crash protection system for the front outboard designated seating positions of each—

(A) new truck, bus, and multipurpose passenger vehicle (other than walk-in van-type trucks and vehicles designed to be exclusively sold to the United States Postal Service)

with a gross vehicle weight rating of 8,500 pounds or less and an unloaded vehicle weight of 5,500 pounds or less, and

(B) new passenger car,

manufactured on or after the dates specified in the applicable schedule established by subsection (b), shall be an inflatable restraint complying with the occupant protection requirements under section 4.1.2.1 of such Standard. This section supplements and revises, but does not replace, Federal Motor Vehicle Safety Standard 208, including the amendment to such Standard 208 of March 26, 1991 (56 F.R. 12472), extending the requirements for automatic crash protection, together with incentives for more innovative automatic crash protection, to trucks, buses, and multipurpose passenger vehicles.

(2) REQUIREMENT.—The amendment to such Standard 208 shall also require, to be effective as soon as possible after the promulgation of such amendment, that the owner manuals for passenger cars and trucks, buses, and multipurpose passenger vehicles equipped with an inflatable restraint include a statement in an easily understandable format—

(A) that the vehicle is equipped with an inflatable restraint referred to as an "airbag" and a lap and shoulder belt in either or both the front outboard seating positions;

(B) that the airbag is a supplemental restraint;

(C) that it does not substitute for lap and shoulder belts which must also be correctly used by an occupant in such seating position to provide restraint or protection not only from frontal crashes but from other types of crashes or accidents; and

(D) that all occupants, including the driver, should always wear their lap and shoulder belts, where available, or other safety belts, whether or not there is an inflatable restraint.

(3) FINDING.—The Congress finds that it is in the public interest for all States to adopt and enforce mandatory seat belt use laws and for the Federal Government to adopt and enforce mandatory seat belt use rules.

(b) SCHEDULE.—The amendment promulgated under subsection (a) shall establish the following schedule: Effective dates.

(1) NEW PASSENGER CARS.—The amendment shall take effect for 95 percent of each manufacturer's annual production of passenger cars manufactured on and after September 1, 1996, and before September 1, 1997, and for 100 percent of each manufacturer's production of passenger cars manufactured on and after September 1, 1997. Subject to the provisions of subsection (c), the percentage prescribed for passenger cars manufactured on and after September 1, 1997, shall be met entirely by inflatable restraints (accompanied by lap and shoulder belts) for both front outboard seating positions.

(2) NEW TRUCKS, BUSES, AND MULTIPURPOSE PASSENGER VEHICLES.—The amendment shall take effect for 80 percent of each manufacturer's annual production of trucks, buses, and multipurpose passenger vehicles described in subsection (a)(1)(A) and manufactured on and after September 1, 1997, and before September 1, 1998, and for 100 percent of each manufacturer's production of such trucks, buses, and multipurpose passenger vehicles manufactured on and after September 1, 1998. Subject to the provisions of subsection (c), the percentage prescribed for such trucks, buses, and multipurpose passenger vehicles manu-

factured on and after September 1, 1998, shall be met entirely by inflatable restraints (accompanied by lap and shoulder belts) for both front outboard seating positions. The incentives or credits available under Standard 208 (as amended by this section) prior to September 1, 1998, shall not be available to the manufacturers to comply with the 100 percent requirement of this paragraph on and after such date.

(c) TEMPORARY EXEMPTION FROM REQUIREMENTS.—Upon application by a manufacturer, in such manner and containing such information as the Secretary shall prescribe in the amendment under this section to such Standard 208, the Secretary may at any time, under such terms and conditions and to such extent as the Secretary deems appropriate, temporarily exempt or renew the exemption of a motor vehicle from the requirements of subsection (a) or (b), or both, if the Secretary finds that there has been a disruption in the supply of any inflatable restraint component, or a disruption in the use and installation by the manufacturer of such component due to unavoidable events not under the control of the manufacturer, that will prevent a manufacturer from meeting its anticipated production volume of vehicles with such restraints. Each application for such exemption must be filed by the manufacturer affected, and must specify the models, lines, and types of vehicles actually affected, although the Secretary may consolidate applications of a similar nature of 1 or more manufacturers. Any exemption or renewal shall be conditioned upon the manufacturer's commitment to recall the exempted vehicles for installation of omitted inflatable restraints within a reasonable time proposed by the manufacturer and approved by the Secretary after such components become available in sufficient quantities to satisfy both anticipated production and recall volume requirements. Notice of each application shall be published in the Federal Register and notice of each decision to grant or deny a temporary exemption, and the reasons for granting or denying it, shall be published in the Federal Register. The Secretary shall require labeling for each exempted motor vehicle which can only be removed after recall and installation of the required inflatable restraint. If a vehicle is delivered without an inflatable restraint, the Secretary shall require that written notification of the exemption be delivered to the dealer and first purchasers for purposes other than resale of such exempted motor vehicle in such a manner, and containing such information, as the Secretary deems appropriate.

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(d) CONSTRUCTION.—Nothing in this section shall be construed by the Secretary or any other person, including any court, as altering or affecting any other provision of law administered by the Secretary and applicable to such passenger cars or trucks, buses, or multipurpose passenger vehicles or as establishing any precedent regarding the development and promulgation of any Federal Motor Vehicle Safety Standard. Nothing in this section or in the amendments made under this section to Federal Motor Vehicle Safety Standard 208 shall be construed by any person or court as indicating an intention by Congress to affect, change, or modify in any way the liability, if any, of a motor vehicle manufacturer under applicable law relative to vehicles with or without inflatable restraints.

(e) REPORT.—The Secretary shall biannually report, beginning October 1, 1992 and continuing to October 1, 2000, on the actual effectiveness of an occupant restraint system defined as the percentage reduction in fatalities or injuries of restrained occupants as

compared to unrestrained occupants for the combination of inflated restraints and lap and shoulder belts, for inflated restraints alone, and for lap and shoulder belts alone. The Secretary, in consultation with the Secretary of Labor and the Secretary of Defense, shall also provide data and analysis on lap and shoulder belt use, nationally and in each State, by Federal, State, and local law enforcement officers, by military personnel, by Federal and State employees other than law enforcement officers, and by the public.

(f) AIRBAGS FOR CARS ACQUIRED FOR FEDERAL USE.—The Secretary, in cooperation with the Administrator of General Services and the heads of other appropriate Federal agencies and consistent with applicable provisions of Federal procurement law and available appropriations, shall establish a program requiring that all passenger cars acquired after September 30, 1994, for use by the Federal Government be equipped, to the maximum extent practicable, with driver-side inflatable restraints and that all passenger cars acquired after September 30, 1996, for use by the Federal Government be equipped, to the maximum extent practicable, with inflatable restraints for both the driver and front seat outboard seating positions.

SEC. 2509. HEAD INJURY IMPACT STUDY.

Reports.

The Secretary, in the case of any head injury protection matters not subject to section 2503(5) for which the Secretary is on the date of enactment of this Act examining the need for rulemaking and is conducting research, shall provide a report to Congress by the end of fiscal year 1993 identifying those matters and their status. The report shall include a statement of any actions planned toward initiating such rulemaking no later than fiscal year 1994 or 1995 through use of either an advance notice of proposed rulemaking or a notice of proposed rulemaking and completing such rulemaking as soon as possible thereafter.

TITLE III—FEDERAL TRANSIT ACT AMENDMENTS OF 1991

Federal Transit Act Amendments of 1991.

SEC. 3001. SHORT TITLE.

49 USC app. 1601 note.

This title may be cited as the "Federal Transit Act Amendments of 1991".

SEC. 3002. AMENDMENTS TO URBAN MASS TRANSPORTATION ACT OF 1964.

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 Urban Mass Transportation Act of 1964 (49 U.S.C. App. 1601–1621).

SEC. 3003. AMENDMENT TO SHORT TITLE OF URBAN MASS TRANSPORTATION ACT OF 1964.

(a) IN GENERAL.—The Act is amended by striking "That this Act may be cited as the 'Urban Mass Transportation Act of 1964'." and inserting the following:

49 USC app. 1601 note.

"SECTION 1. SHORT TITLE.

Federal Transit Act.

"This Act may be cited as the 'Federal Transit Act'.".

49 USC app. 1601 note.

(b) OTHER REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Urban Mass Transportation Act of 1964 shall be deemed to be a reference to the "Federal Transit Act".

SEC. 3004. FEDERAL TRANSIT ADMINISTRATION.

(a) REDESIGNATION OF UMTA.—The Urban Mass Transportation Administration of the Department of Transportation shall be known and designated as the "Federal Transit Administration".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Urban Mass Transportation Administration shall be deemed to be a reference to the "Federal Transit Administration".

(c) AMENDMENTS TO TITLE 49.—

(1) AMENDMENT TO TEXT.—Section 107(a) of title 49, United States Code, is amended by striking "Urban Mass Transportation Administration" and inserting "Federal Transit Administration".

(2) AMENDMENT TO SECTION HEADING.—The heading for section 107 of such title is amended to read as follows:

"§ 107. Federal Transit Administration".

(3) AMENDMENT TO CHAPTER ANALYSIS.—The analysis for chapter 1 of such title is amended by striking the item relating to section 107 and inserting the following:

"107. Federal Transit Administration.".

(d) AMENDMENTS TO TITLE 5.—Title 5, United States Code, is amended—

(1) in section 5314 by striking "Urban Mass Transportation Administrator" and inserting "Federal Transit Administrator"; and

(2) in section 5316 by striking "Deputy Administrator, Urban Mass Transportation Administration" and inserting "Deputy Administrator, Federal Transit Administration".

SEC. 3005. FINDINGS AND PURPOSES.

49 USC app. 1601.

(a) FINDINGS.—Section 2(a) is amended—

(1) in paragraph (2) by striking "; and" and inserting a semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) that significant transit improvements are necessary to achieve national goals for improved air quality, energy conservation, international competitiveness, and mobility for elderly persons, persons with disabilities, and economically disadvantaged persons in urban and rural areas of the country.".

(b) PURPOSES.—Section 2(b) is amended—

(1) in paragraph (2) by striking "; and" and inserting a semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) to provide financial assistance to State and local governments and their instrumentalities to help implement national

goals relating to mobility for elderly persons, persons with disabilities, and economically disadvantaged persons.".

SEC. 3006. MAJOR CAPITAL INVESTMENT PROGRAM.

(a) ELDERLY PERSONS AND PERSONS WITH DISABILITIES.—Section 3(a)(1) is amended by striking subparagraph (E) and inserting the following new subparagraph: 49 USC app. 1602.

"(E) transit projects which are planned, designed, and carried out to meet the special needs of elderly persons and persons with disabilities; and".

(b) CORRIDOR DEVELOPMENT.—Section 3(a)(1) is further amended by adding at the end the following new subparagraph:

"(F) the development of corridors to support fixed guideway systems, including protection of rights-of-way through acquisition, construction of dedicated bus and high occupancy vehicle lanes, construction of park and ride lots, and any other nonvehicular capital improvements that the Secretary may determine would result in increased transit usage in the corridor.".

(c) GRANDFATHERED LETTERS OF INTENT.—This Act shall not be construed to affect the validity of any existing letter of intent, full funding grant agreement, or letter of commitment issued under section 3(a)(4) of the Federal Transit Act before the date of the enactment of the Federal Transit Act Amendments of 1991. 49 USC app. 1602 note.

(d) ALLOCATIONS.—Section 3(k) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Subject to paragraph (3), of the amounts available for grants and loans under this section for fiscal years 1992, 1993, 1994, 1995, 1996, and 1997—

"(A) 40 percent shall be available for fixed guideway modernization;

"(B) 40 percent shall be available for construction of new fixed guideway systems and extensions to fixed guideway systems; and

"(C) 20 percent shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities."; and

(2) by adding at the end the following new paragraph:

"(3) AREAS OTHER THAN URBANIZED AREAS.—At least 5.5 percent of the amounts available for grants and loans under subsection (k)(1)(C) for fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 shall be available for areas other than urbanized areas.".

(e) BOND INTEREST ON ADVANCE CONSTRUCTION.—Section 3(l)(2)(B) is amended by striking "the excess of—" and all that follows through the period and inserting "the most favorable interest terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a form satisfactory to the Secretary, that the applicant has shown due diligence in seeking the most favorable financial terms.".

(f) FEDERAL SHARE.—Section 4(a) is amended— 49 USC app. 1603.

(1) by striking "75 per centum" and inserting "80 percent"; and

(2) by inserting before the period at the end of the second sentence the following: ", unless the recipient of the grant requests a lower Federal grant percentage".

(g) LOCAL SHARE FOR CERTAIN PLANNED EXTENSIONS OF FIXED GUIDEWAY SYSTEMS.—Section 4(a) is amended by adding at the end

the following new sentence: "The remainder of the net project cost of a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant demonstrates to the satisfaction of the Secretary that—

"(1) such purchase was made solely with non-Federal funds; and

"(2) such purchase was made for use on the extension.".

49 USC app. 1603.

(h) FISCAL CAPACITY CONSIDERATIONS.—Section 4 is amended—

(1) by striking subsections (b), (c), (d), (e), (f), and (g) and redesignating subsections (h) and (i) as subsections (b) and (c), respectively; and

(2) by adding at the end the following new subsection:

"(d) FISCAL CAPACITY CONSIDERATIONS.—If the Secretary gives priority consideration to the funding of projects which include more than the non-Federal share required by subsection (a), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.".

SEC. 3007. CAPITAL GRANTS; TECHNICAL AMENDMENT TO PROVIDE FOR EARLY SYSTEMS WORK CONTRACTS AND FULL FUNDING GRANT AGREEMENTS.

49 USC app. 1602.

Section 3(a)(4) is amended—

(1) by inserting "(A)" after "(4)";

(2) in the fifth sentence by inserting "not less than" after "complete";

(3) by adding after the sixth sentence the following:

"(B) The Secretary is authorized to enter into a full funding grant agreement with an applicant, which agreement shall—

"(i) establish the terms and conditions of Federal financial participation in a project under this section;

"(ii) establish the maximum amounts of Federal financial assistance for such project;

"(iii) cover the period of time to completion of the project, including any period that may extend beyond the period of any authorization; and

"(iv) facilitate timely and efficient management of such project in accordance with Federal law.

"(C) An agreement under subparagraph (B) shall obligate an amount of available budget authority specified in law and may include a commitment, contingent upon the future availability of budget authority, to obligate an additional amount or additional amounts from future available budget authority specified in law. The agreement shall specify that the contingent commitment does not constitute an obligation of the United States. The future availability of budget authority referred to in the first sentence of this subparagraph shall be amounts to be specified in law in advance for commitments entered into under subparagraph (B). Any interest and other financing costs of efficiently carrying out the project or a portion thereof within a reasonable period of time shall be considered as a cost of carrying out the project under a full funding grant agreement; except that eligible costs shall not be greater than the costs of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a form satisfactory to the Secretary, that the applicant has shown due diligence in seeking the most favorable financing terms. The total of amounts stipulated in a full funding grant agreement for a fixed

guideway project shall be sufficient to complete not less than an operable segment.

"(D) The Secretary is authorized to enter into an early systems work agreement with an applicant if a record of decision pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary determines that there is reason to believe—

"(i) a full funding grant agreement will be entered into for the project; and

"(ii) the terms of the early systems work agreement will promote ultimate completion of the project more rapidly and at less cost.

The early systems work agreement shall obligate an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of project implementation, including land acquisition, timely procurement of system elements for which specifications are determined, and other activities that the Secretary determines to be appropriate to facilitate efficient, long-term project management. An early systems work agreement shall cover such period of time as the Secretary deems appropriate, which period may extend beyond the period of current authorization. The interest and other financing costs of carrying out the early systems work agreement efficiently and within a reasonable period of time shall be considered as a cost of carrying out the agreement; except that eligible costs shall not be greater than the costs of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a form satisfactory to the Secretary, that the applicant has shown due diligence in seeking the most favorable financing terms. If an applicant fails to implement the project for reasons within the applicant's control, the applicant shall repay all Federal payments made under the early systems work agreement plus such reasonable interest and penalty charges as the Secretary may establish in the agreement.";

(4) by inserting "(E)" before "The total estimated" and aligning subparagraph (E) with subparagraph (D);

(5) in the sentence that begins "The total estimated"—

(A) by inserting ", and contingent commitments to incur obligations," after "Federal obligations";

(B) by inserting ", early systems work agreements, and full funding grant agreements," after "all outstanding letters of intent,"; and

(C) by inserting "or 50 percent of the uncommitted cash balance remaining in the Mass Transit Account of the Highway Trust Fund, including amounts received from taxes and interest earned in excess of amounts that have been previously obligated, whichever is greater" after "section 3 of this Act"; and

(6) in the sentence that begins "The total amount covered", by inserting "and contingent commitments included in early systems work agreements and full funding grant agreements" after "by new letters issued,".

SEC. 3008. FIXED GUIDEWAY MODERNIZATION.

Section 3 is amended by striking subsection (h) and inserting the following new subsection: 49 USC app. 1602.

"(h) FIXED GUIDEWAY MODERNIZATION APPORTIONMENTS.—The Secretary shall apportion the sums made available for fixed guide-

way modernization under this section for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 as follows:

"(1) The first $455,000,000 made available shall be apportioned for expenditure in the following urbanized areas according to the following percentages:

"(A) Baltimore, 1.84 percent.

"(B) Boston, 8.56 percent.

"(C) Chicago/Northwestern Indiana, 17.18 percent.

"(D) Cleveland, 2.09 percent.

"(E) New York, 35.57 percent.

"(F) Northeastern New Jersey, 9.04 percent.

"(G) Philadelphia/Southern New Jersey, 12.41 percent.

"(H) San Francisco, 7.21 percent.

"(I) Southwestern Connecticut, 6.10 percent.

"(2) The next $42,700,000 made available shall be apportioned for expenditure in the following urbanized areas according to the following percentages:

"(A) New York, 33.2341 percent.

"(B) Northeastern New Jersey, 22.1842 percent.

"(C) Philadelphia and Southern New Jersey, 5.7594 percent.

"(D) San Francisco, 2.7730 percent.

"(E) Pittsburgh, 31.9964 percent.

"(F) New Orleans, 4.0529 percent.

"(3) The next $70,000,000 made available shall be apportioned for expenditure—

"(A) 50 percent in the urbanized areas listed in paragraphs (1) and (2) according to the apportionment formula contained in section 9(b)(2); and

"(B) 50 percent in other urbanized areas eligible for assistance under section 9(b)(2) of this Act which contain a fixed guideway system placed in revenue service not less than 7 years prior to the fiscal year in which funds are made available and in other urbanized areas which before the first day of the fiscal year demonstrate to the satisfaction of the Secretary that the urbanized area has modernization needs which cannot be adequately met with amounts received under section 9(b)(2) according to the apportionment formula contained in such section.

"(4) Any remaining amounts made available in a fiscal year shall be apportioned for expenditure in each urbanized area eligible for assistance under paragraphs (1), (2), and (3) in accordance with the apportionment formula contained in section 9(b)(2).

"(5) In any fiscal year in which the full amounts authorized under paragraphs (1) and (2) are not made available, the Secretary shall reduce on a pro rata basis the apportionments of all urbanized areas eligible under either paragraph to adjust for the shortfall.

"(6) Notwithstanding any other provision of law, rail modernization funds allocated to the New Jersey Transit Corporation under this paragraph may be spent in any urbanized area in which the New Jersey Transit Corporation operates rail service regardless of the urbanized area which generates the funding.".

SEC. 3009. BUS TESTING.

Section 3 is amended by adding at the end the following new subsection: 49 USC app. 1602.

"(m) BUS TESTING.—Of the amounts made available for replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus related facilities by subsection (k)(1)(C), the Secretary shall make available $1,500,000 in fiscal year 1992, $2,000,000 in fiscal year 1993, the lesser of $2,000,000 or an amount the Secretary determines to be necessary per fiscal year in each of fiscal years 1994, 1995, and 1996, and the lesser of $3,000,000 or an amount the Secretary determines to be necessary in fiscal year 1997. Such amounts shall be available to the Secretary to pay 80 percent of the cost of testing a vehicle at the facility established under section 317 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (49 U.S.C. App. 1608). The Secretary shall make such payments by contract with the operator of the facility. The remaining 20 percent of the cost of testing a vehicle shall be paid to the operator of the facility by the entity having the vehicle tested.".

SEC. 3010. CRITERIA FOR NEW STARTS.

Section 3(i) is amended to read as follows:

"(i) NEW START CRITERIA.—

"(1) DETERMINATIONS.—A grant or loan for construction of a new fixed guideway system or extension of any fixed guideway system may not be made under this section unless the Secretary determines that the proposed project—

"(A) is based on the results of an alternatives analysis and preliminary engineering;

"(B) is justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, and operating efficiencies; and

"(C) is supported by an acceptable degree of local financial commitment, including evidence of stable and dependable funding sources to construct, maintain, and operate the system or extension.

"(2) CONSIDERATIONS.—In making determinations under this subsection, the Secretary—

"(A) shall consider the direct and indirect costs of relevant alternatives;

"(B) shall account for costs related to such factors as congestion relief, improved mobility, air pollution, noise pollution, congestion, energy consumption, and all associated ancillary and mitigation costs necessary to implement each alternative analyzed; and

"(C) shall identify and consider transit supportive existing land use policies and future patterns, and consider other factors including the degree to which the project increases the mobility of the transit dependent population or promotes economic development, and other factors that the Secretary deems appropriate to carry out the purposes of this Act.

"(3) GUIDELINES.—

"(A) IN GENERAL.—The Secretary shall issue guidelines that set forth the means by which the Secretary shall evaluate results of alternatives analysis, project justifica-

tion, and degree of local financial commitment for the purposes of paragraph (1).

"(B) PROJECT JUSTIFICATION.—Project justification criteria shall be adjusted to reflect differences in local land costs, construction costs, and operating costs.

"(C) FINANCIAL COMMITMENT.—The degree of local financial commitment shall be considered acceptable only if—

"(i) the proposed project plan provides for the availability of contingency funds that the Secretary determines to be reasonable to cover unanticipated cost overruns;

"(ii) each proposed local source of capital and operating funding is stable, reliable, and available within the proposed project timetable; and

"(iii) local resources are available to operate the overall proposed transit system (including essential feeder bus and other services necessary to achieve the projected ridership levels) without requiring a reduction in existing transit services in order to operate the proposed project.

"(D) STABILITY ASSESSMENT.—In assessing the stability, reliability, and availability of proposed sources of local funding, the Secretary shall consider—

"(i) existing grant commitments;

"(ii) the degree to which funding sources are dedicated to the purposes proposed; and

"(iii) any debt obligations which exist or are proposed by the recipient for the proposed project or other transit purposes.

"(4) PROJECT ADVANCEMENT.—No project shall be advanced from alternatives analysis to preliminary engineering unless the Secretary finds that the proposed project meets the requirements of this section and there is a reasonable chance that the project will continue to meet these requirements at the conclusion of preliminary engineering.

"(5) EXCEPTIONS.—

"(A) IN GENERAL.—A new fixed guideway system or extension shall not be subject to the requirements of this subsection and the simultaneous evaluation of such projects in more than one corridor in a metropolitan area shall not be limited if (i) the project is located within an extreme or severe nonattainment area and is a transportation control measure, as defined by the Clean Air Act, that is required to carry out an approved State Implementation Plan, or (ii) assistance provided under this section accounts for less than $25,000,000 or less than ⅓ of the total cost of the project or an appropriate program of projects as determined by the Secretary.

"(B) EXPEDITED PROCEDURES.—In the case of a project that is (i) located within a nonattainment area that is not an extreme or severe nonattainment area, (ii) a transportation control measure, as defined in the Clean Air Act, and (iii) required to carry out an approved State Implementation Plan, the simultaneous evaluation of projects in more than one corridor in a metropolitan area shall not be limited and the Secretary shall make determinations under this subsec-

tion with expedited procedures that will promote timely implementation of the State Implementation Plan.

"(C) EXCLUSION FOR CERTAIN PROJECTS.—That portion of a project (including any commuter rail service project on an existing right-of-way) financed entirely with highway funds made available under the Federal-Aid Highway Act of 1991 shall not be subject to the requirements of this subsection.

"(6) PROJECT IMPLEMENTATION.—A project funded pursuant to this subsection shall be implemented by means of a full funding grant agreement.".

SEC. 3011. ASSURED TIMETABLE FOR PROJECT REVIEW.

(a) IN GENERAL.—Section 3(a) is amended by striking paragraph (6) and inserting the following new paragraphs: 49 USC app. 1602.

"(6) ASSURED TIMETABLE FOR PROJECTS IN ALTERNATIVES ANALYSIS, PRELIMINARY ENGINEERING, OR FINAL DESIGN STAGES.—

"(A) ALTERNATIVES ANALYSIS STAGE.—For any new fixed guideway project that the Secretary permits to advance into the alternatives analysis stage of project review, the Secretary shall cooperate with the applicant in alternatives analysis and in preparation of a draft environmental impact statement, and shall approve the draft environmental impact statement for circulation not later than 45 days after the date on which such draft is submitted to the Secretary by the applicant.

"(B) PRELIMINARY ENGINEERING STAGE.—Following circulation of the draft environmental impact statement and not later than 30 days after selection by the applicant of a locally preferred alternative, the Secretary shall permit the project to advance to the preliminary engineering phase if the Secretary finds the project is consistent with the criteria set forth in subsection (i).

"(C) FINAL DESIGN STAGE.—The Secretary shall issue a record of decision and permit a project to advance to the final design stage of construction not later than 120 days after the date of completion of the final environmental impact statement for such project.

"(D) FULL FUNDING GRANT AGREEMENT.—The Secretary shall negotiate and enter into a full funding grant agreement for a project not later than 120 days after the date on which such project has entered the final design stage of construction. Such full funding grant agreement shall provide for a Federal share of the cost of construction that is not less than the Federal share estimated in the Secretary's most recent report required under section 3(j) or an update thereof unless otherwise requested by an applicant.

"(7) PERMITTED DELAYS IN PROJECT REVIEW.—

"(A) IN GENERAL.—Advancement of a project under the timetables specified under paragraph (6) shall be delayed only—

"(i) for such period of time as the applicant, solely at the applicant's discretion, may request; or

"(ii) during such period of time as the Secretary finds, after reasonable notice and opportunity for comment, that the applicant has failed, for reasons solely attributable to the applicant, to comply substantially

with requirements of this Act with respect to the project.

"(B) EXPLANATION OF DELAY.—Not more than 10 days after imposing any delay under subparagraph (A)(ii), the Secretary shall provide the applicant with a written statement that (i) explains the reasons for such delay, and (ii) describes all steps which the applicant must take to end the period of delay.

"(C) REPORTS.—The Secretary shall report, not less frequently than once every 6 months, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate in any case in which the Secretary—

"(i) fails to meet a deadline established by paragraph (6); or

"(ii) delays the application of a deadline under subparagraph (A)(ii).

Such report shall explain the reasons for the delay and include a plan for achieving timely completion of the Secretary's review of the project.

"(8) TREATMENT OF PROGRAMS OF INTERRELATED PROJECTS.—

"(A) FULL FUNDING GRANT AGREEMENT.—In accordance with the timetables established by paragraph (6) or as otherwise provided by law, the Secretary shall enter into 1 or more full funding grant agreements for each program of interrelated projects described in subparagraph (C). Such full funding grant agreements shall include commitments to advance each of the applicant's program elements (in the program of interrelated projects) through the appropriate stages of project review in accordance with the timetables established by paragraph (6) or as otherwise provided for a project by law, and to provide Federal funding for each such program element. Such full funding grant agreements may also be amended, if appropriate, to include design and construction of particular program elements. Inclusion of a nonfederally funded program element in a program of interrelated projects shall not be construed as imposing Federal requirements which would not otherwise apply to such program element.

"(B) CONSIDERATIONS.—When reviewing any project in a program of interrelated projects, the Secretary shall consider the local financial commitment, transportation effectiveness, and other assessment factors of all program elements to the extent that such consideration expedites project implementation.

"(C) PROGRAMS OF INTERRELATED PROJECTS.—For the purposes of this paragraph, programs of interrelated projects shall include the following:

"(i) The New Jersey Urban Core Project as defined by the Federal Transit Act Amendments of 1991.

"(ii) The San Francisco Bay Area Rail Extension Program, which consists of not less than the following elements: an extension of the San Francisco Bay Area Rapid Transit District to the San Francisco International Airport (Phase 1a to Colma and Phase 1b to San Francisco Airport), the Santa Clara County Transit

District Tasman Corridor Project, and any other program element designated by any modification to Metropolitan Transportation Commission Resolution No. 1876, as well as program elements financed entirely with non-Federal funds, including the BART Warm Springs Extension, Dublin Extension, and West Pittsburg Extension.

"(iii) The Los Angeles Metro Rail Minimum Operable Segment-3 Program, which consists of 7 stations and approximately 11.6 miles of heavy rail subway on the following lines:

"(I) 1 line running west and northwest from the Hollywood/Vine station to the North Hollywood station, with 2 intermediate stations;

"(II) 1 line running west from the Wilshire/Western station to the Pico/San Vicente station, with 1 intermediate station; and

"(III) the East Side Extension, consisting of an initial line of approximately 3 miles in length, with at least 2 stations, beginning at Union Station and running generally east.

"(iv) The Baltimore-Washington Transportation Improvements Program, which consists of the following elements: 3 extensions of the Baltimore Light Rail to Hunt Valley, Penn Station and Baltimore-Washington Airport; MARC extensions to Frederick and Waldorf, Maryland; and an extension of the Washington Subway system to Largo, Maryland.

"(v) The Tri-County Metropolitan Transportation District of Oregon Westside Light Rail Program, which consists of the following elements: the locally preferred alternative for the Westside Light Rail Project, including system related costs, set forth in Public Law 101-516 and as defined in House Report 101-584; and the Hillsboro extension to the Westside Light Rail Project as set forth in Public Law 101-516.

"(vi) The Queens Local/Express Connector Program which consists of the following elements: the locally preferred alternative for the connection of the 63rd Street tunnel extension to the Queens Boulevard lines; the bell-mouth portion of the connector which would allow for future access by both commuter rail trains and other subway lines to the 63rd Street tunnel extension; planning elements for connecting both upper and lower level to commuter and subway lines in Long Island City; and planning elements for providing a connector for commuter rail service to the East side of Manhattan and subway lines to the proposed Second Avenue subway.

"(vii) The Dallas Area Rapid Transit Authority light rail elements of the New System Plan, which consists of the following elements: the locally preferred alternative for the South Oak Cliff corridor; the South Oak Cliff corridor extension-Camp Wisdom; the West Oak Cliff corridor-Westmoreland; the North Central corridor-Park Lane; the North Central corridor-Richardson, Plano and Garland extensions; the Pleasant Grove

corridor-Buckner; and the Carrollton corridor-Farmers Branch and Las Colinas terminal.

"(viii) Such other programs as may be designated in law or by the Secretary.".

Effective date. 49 USC app. 1602 note.

(b) TRANSITIONAL PROVISION.—In the case of a project (including programs of interrelated projects) that, as of the date of enactment of this Act, has reached a particular stage of project review under section 3(a)(6) of the Federal Transit Act, the timetables applicable to subsequent stages of project review contained in such section shall take effect on the date of enactment of this Act.

SEC. 3012. METROPOLITAN PLANNING.

The Act is amended by striking section 8 and inserting the following new section:

49 USC app. 1607.

"SEC. 8. METROPOLITAN PLANNING.

"(a) GENERAL REQUIREMENTS.—It is in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner which will efficiently maximize mobility of people and goods within and through urbanized areas and minimize transportation-related fuel consumption and air pollution. To accomplish this objective, metropolitan planning organizations, in cooperation with the State, shall develop transportation plans and programs for urbanized areas of the State. Such plans and programs shall provide for the development of transportation facilities (including pedestrian walkways and bicycle transportation facilities) which will function as an intermodal transportation system for the State, the metropolitan areas, and the Nation. The process for developing such 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.

"(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 of more than 50,000 population by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) or in accordance with procedures established by applicable State or local law.

"(2) MEMBERSHIP OF CERTAIN MPO'S.—In a metropolitan area designated as a transportation management area, the metropolitan planning organization designated for such area shall include local elected officials, officials of agencies which administer or operate major modes of transportation in the metropolitan area (including all transportation agencies included in the metropolitan planning organization on June 1, 1991) and appropriate State officials. This paragraph shall only apply to a metropolitan planning organization which is redesignated after the date of the enactment of this section.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on the date of the enactment

of this section, of a public agency with multimodal transportation responsibilities to—

"(A) develop plans and programs for adoption by a metropolitan planning organization; and

"(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

"(4) CONTINUING DESIGNATION.—Designations of metropolitan planning organizations, whether made under this section or other provisions of law, shall remain in effect until redesignated under paragraph (5) or revoked by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population or as otherwise provided under State or local procedures.

"(5) REDESIGNATION.—

"(A) PROCEDURES.—A metropolitan planning organization may be redesignated by agreement among the Governor and units of general purpose local government which together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) as appropriate to carry out this section.

"(B) CERTAIN REQUESTS TO REDESIGNATE.—A metropolitan planning organization shall be redesignated upon request of a unit or units of general purpose local government representing at least 25 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) in any urbanized area (i) whose population is more than 5,000,000 but less than 10,000,000, or (ii) which is an extreme nonattainment area for ozone or carbon monoxide as defined under the Clean Air Act. Such redesignation shall be accomplished using procedures established by subparagraph (A).

"(6) TREATMENT OF LARGE URBAN AREAS.—More than 1 metropolitan planning organization may be designated within an urbanized area as defined by the Bureau of the Census only if the Governor determines that the size and complexity of the urbanized area make designation of more than 1 metropolitan planning organization for such area appropriate.

"(c) METROPOLITAN AREA BOUNDARIES.—For the purposes of this section, the boundaries of a metropolitan area shall be determined by agreement between the metropolitan planning organization and the Governor. Each metropolitan area shall cover at least the existing urbanized area and the contiguous area expected to become urbanized within the 20-year forecast period and may encompass the entire Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area, as defined by the Bureau of the Census. For areas designated as nonattainment areas for ozone or carbon monoxide under the Clean Air Act, the boundaries of the metropolitan area shall at least include the boundaries of the nonattainment area, except as otherwise provided by agreement between the metropolitan planning organization and the Governor.

"(d) COORDINATION IN MULTI-STATE AREAS.—

"(1) IN GENERAL.—The Secretary shall establish such requirements as the Secretary considers appropriate to encourage Governors and metropolitan planning organizations with responsibility for a portion of a multi-State metropolitan area to

provide coordinated transportation planning for the entire metropolitan area.

"(2) COMPACTS.—The consent of Congress is hereby given to any 2 or more States 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 such activities pertain to interstate areas and localities within such States and to establish such agencies, joint or otherwise, as such States may deem desirable for making such agreements and compacts effective.

"(e) COORDINATION OF MPO'S.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and programs required by this section.

"(f) FACTORS TO BE CONSIDERED.—In developing transportation plans and programs pursuant to this section, each metropolitan planning organization shall, at a minimum, consider the following:

"(1) Preservation of existing transportation facilities and, where practical, ways to meet transportation needs by using existing transportation facilities more efficiently.

"(2) The consistency of transportation planning with applicable Federal, State, and local energy conservation programs, goals, and objectives.

"(3) The need to relieve congestion and prevent congestion from occurring where it does not yet occur.

"(4) The likely effect of transportation policy decisions on land use and development and the consistency of transportation plans and programs with the provisions of all applicable short- and long-term land use and development plans.

"(5) The programming of expenditure on transportation enhancement activities as required in section 133.

"(6) The effects of all transportation projects to be undertaken within the metropolitan area, without regard to whether such projects are publicly funded.

"(7) International border crossings and access to ports, airports, intermodal transportation facilities, major freight distribution routes, national parks, recreation areas, monuments and historic sites, and military installations.

"(8) The need for connectivity of roads within the metropolitan area with roads outside the metropolitan area.

"(9) The transportation needs identified through use of the management systems required by section 303 of this title.

"(10) Preservation of rights-of-way for construction of future transportation projects, including identification of unused rights-of-way which may be needed for future transportation corridors and identification of those corridors for which action is most needed to prevent destruction or loss.

"(11) Methods to enhance the efficient movement of freight.

"(12) The use of life-cycle costs in the design and engineering of bridges, tunnels, or pavement.

"(13) The overall social, economic, energy, and environmental effects of transportation decisions.

"(14) Methods to expand and enhance transit services and to increase the use of such services.

"(15) Capital investments that would result in increased security in transit systems.

"(g) DEVELOPMENT OF LONG RANGE PLAN.—

"(1) IN GENERAL.—Each metropolitan planning organization shall prepare, and update periodically, according to a schedule that the Secretary determines to be appropriate, a long range plan for its metropolitan area in accordance with the requirements of this subsection.

"(2) LONG RANGE PLAN.—A long range plan under this section shall be in a form that the Secretary determines to be appropriate and shall, at a minimum:

"(A) Identify transportation facilities (including but not necessarily limited to major roadways, transit, and multimodal and intermodal facilities) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the long range plan, the metropolitan planning organization shall consider factors described in subsection (f) as such factors relate to a 20-year forecast period.

"(B) Include a financial plan that demonstrates how the long-range plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any innovative financing techniques to finance needed projects and programs, including such techniques as value capture, tolls and congestion pricing.

"(C) Assess capital investment and other measures necessary to—

"(i) ensure the preservation of the existing metropolitan transportation system, including requirements for operational improvements, resurfacing, restoration, and rehabilitation of existing and future major roadways, as well as operations, maintenance, modernization, and rehabilitation of existing and future transit facilities; and

"(ii) make the most efficient use of existing transportation facilities to relieve vehicular congestion and maximize the mobility of people and goods.

"(D) Indicate as appropriate proposed transportation enhancement activities.

"(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the metropolitan planning organization shall coordinate the development of a long range plan with the process for development of the transportation control measures of the State Implementation Plan required by the Clean Air Act.

"(4) PARTICIPATION BY INTERESTED PARTIES.—Before approving a long range plan, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the long range plan, in a manner that the Secretary deems appropriate.

"(5) PUBLICATION OF LONG RANGE PLAN.—Each long range plan prepared by a metropolitan planning organization shall be—

"(i) published or otherwise made readily available for public review; and

"(ii) submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

"(h) TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—The metropolitan planning organization designated for a metropolitan area, in cooperation with the State and affected transit operators, shall develop a transportation improvement program for the area for which such organization is designated. In developing the program, the metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program. The program shall be updated at least once every 2 years and shall be approved by the metropolitan planning organization and the Governor.

"(2) PRIORITY OF PROJECTS.—The transportation improvement program shall include the following:

"(A) A priority list of projects and project segments to be carried out within each 3-year period after the initial adoption of the transportation improvement program.

"(B) A financial plan that demonstrates how the transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any innovative financing techniques to finance needed projects and programs, including value capture, tolls, and congestion pricing.

"(3) SELECTION OF PROJECTS.—Except as otherwise provided in subsection (i)(4), project selection in metropolitan areas for projects involving Federal participation shall be carried out by the State in cooperation with the metropolitan planning organization and shall be in conformance with the transportation improvement program for the area.

"(4) MAJOR CAPITAL INVESTMENTS.—Not later than 6 months after the date of enactment of this section, the Secretary shall initiate a rulemaking proceeding to conform review requirements for transit projects under the National Environmental Policy Act of 1969 to comparable requirements under such Act applicable to highway projects. Nothing in this section shall be construed to affect the applicability of such Act to transit or highway projects.

"(5) INCLUDED PROJECTS.—A transportation improvement program for a metropolitan area developed under this subsection shall include projects within the area which are proposed for funding under this title and the Federal Transit Act and which are consistent with the long range plan developed under subsection (g) for the area. 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.

"(6) NOTICE AND COMMENT.—Before approving a transportation improvement program, a metropolitan planning organization shall 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.

"(i) TRANSPORTATION MANAGEMENT AREAS.—

"(1) DESIGNATION.—The Secretary shall designate as transportation management areas all urbanized areas over 200,000 population. The Secretary shall designate any additional area as a transportation management area upon the request of the Governor and the metropolitan planning organization designated for such area or the affected local officials. Such additional areas shall include upon such a request the Lake Tahoe Basin as defined by Public Law 96-551.

"(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 transit operators.

"(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 the Federal Transit Act through the use of travel demand reduction and operational management strategies. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section.

"(4) SELECTION OF PROJECTS.—All projects carried out within the boundaries of a transportation management area with Federal participation pursuant to this title (excluding projects undertaken on the National Highway System and pursuant to the Bridge and Interstate Maintenance programs) or pursuant to the Federal Transit Act shall be selected by the metropolitan planning organization designated for such area in consultation with the State and in conformance with the transportation improvement program for such area and priorities established therein. Projects undertaken within the boundaries of a transportation management area on the National Highway System or pursuant to the Bridge and Interstate Maintenance programs shall be selected by the State in cooperation with the metropolitan planning organization designated for such area and shall be in conformance with the transportation improvement program for such area.

"(5) CERTIFICATION.—The Secretary shall assure that each metropolitan planning organization in each transportation management area is carrying out its responsibilities under applicable provisions of Federal law, and shall so certify at least once every 3 years. The Secretary may make such certification only if (1) a metropolitan planning organization is complying with the requirements of section 134 and other applicable requirements of Federal law, and (2) there is a transportation improvement program for the area that has been approved by the metropolitan planning organization and the Governor. If

after September 30, 1993, a metropolitan planning organization is not certified by the Secretary, the Secretary may withhold, in whole or in part, the apportionment under section 104(b)(3) attributed to the relevant metropolitan area pursuant to section 133(d)(3) and capital funds apportioned under the formula program under section 9 of the Federal Transit Act. If a metropolitan planning organization remains uncertified for more than 2 consecutive years after September 30, 1994, 20 percent of the apportionment attributed to that metropolitan area under section 133(d)(3) and capital funds apportioned under the formula program under section 9 of the Federal Transit Act shall be withheld. The withheld apportionments shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary. The Secretary shall not withhold certification under this section based upon 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 8(o) of the Federal Transit Act.

"(j) ABBREVIATED PLANS AND PROGRAMS FOR CERTAIN AREAS.—For metropolitan areas not designated as transportation management areas under this section, the Secretary may provide for the development of abbreviated metropolitan transportation plans and programs that the Secretary determines to be appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems, including transportation related air quality problems, in such areas. In no event shall the Secretary provide abbreviated plans or programs for metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act.

"(k) TRANSFER OF FUNDS.—Funds made available for a transit project under title 23, United States Code, shall be transferred to and administered by the Secretary in accordance with the requirements of this Act. Funds made available for a highway project under this Act shall be transferred to and administered by the Secretary in accordance with the requirements of title 23, United States Code.

"(l) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—Notwithstanding any other provisions of this Act or title 23, United States Code, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be programmed in such area for any transit project that will result in a significant increase in carrying capacity for single occupant vehicles unless the project is part of an approved congestion management system.

"(m) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed—

"(1) to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this title or the Federal Transit Act; or

"(2) to intervene in the management of a transportation agency.

"(n) GRANTS.—

"(1) ELIGIBILITY.—The Secretary is authorized to contract for and make grants to States and local public bodies and agencies thereof, or enter into agreements with other Federal departments and agencies, for the planning, engineering, design, and

evaluation of public transportation projects, and for other technical studies. Activities assisted under this section may include—

"(A) studies relating to management, operations, capital requirements, and economic feasibility;

"(B) evaluation of previously funded projects; and

"(C) other similar or related activities preliminary to and in preparation for the construction, acquisition, or improved operation of facilities and equipment.

"(2) CRITERIA.—A grant, contract, or working agreement under this section shall be made in accordance with criteria established by the Secretary.

"(o) PRIVATE ENTERPRISE.—The plans and programs required by this section shall encourage to the maximum extent feasible the participation of private enterprise. Where facilities and equipment are to be acquired which are already being used in service in the urban areas, the program must provide that they shall be so improved (through modernization, extension, addition, or otherwise) that they will better serve the transportation needs of the area.

"(p) USE FOR COMPREHENSIVE PLANNING.—

"(1) IN GENERAL.—The Secretary shall ensure, to the extent practicable, that amounts made available under section 21(c)(1) for the purposes of this section are used to support balanced and comprehensive transportation planning that takes into account the relationships among land use and all transportation modes, without regard to the programmatic source of the planning funds.

"(2) FORMULA ALLOCATION TO ALL METROPOLITAN AREAS.—The Secretary shall apportion 80 percent of the amount made available under section 21(c)(1) to States in the ratio that the population in urbanized areas, in each State, bears to the total population in urbanized areas, in all the States as shown by the latest available decennial census, except that no State shall receive less than ½ of 1 percent of the amount apportioned under this paragraph. Such funds shall be allocated to metropolitan planning organizations designated under section 8 by a formula, developed by the State in cooperation with metropolitan planning organizations and approved by the Secretary, that considers population in urbanized areas and provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in section 8 of this Act. The State shall make such funds available promptly to eligible metropolitan planning organizations according to procedures approved by the Secretary.

"(3) SUPPLEMENTAL ALLOCATION.—The Secretary shall apportion 20 percent of the amounts made available under section 21(c)(1) to States to supplement allocations under subparagraph (B) for metropolitan planning organizations. Such funds shall be allocated according to a formula that reflects the additional costs of carrying out planning, programming, and project selection responsibilities under this section in such areas.

"(4) HOLD HARMLESS.—The Secretary shall ensure, to the maximum extent practicable, that no metropolitan planning organization is allocated less than the amount it received by administrative formula under section 8 in fiscal year 1991. To comply with the previous sentence, the Secretary is authorized

to make a pro rata reduction in other amounts made available to carry out section 21(c).

"(5) FEDERAL SHARE PAYABLE.—The Federal share payable for activities under this paragraph shall be 80 percent except where the Secretary determines that it is in the Federal interest not to require a State or local match.".

SEC. 3013. BLOCK GRANT PROGRAM.

49 USC app. 1607a.

(a) ALLOCATIONS.—Section 9(a) is amended—

(1) in paragraph (1), by striking "Of the amount" and all that follows through the period and inserting the following: "Of the amounts made available or appropriated under section 21(g), 9.32 percent shall be available for expenditure under this section in each fiscal year only in urbanized areas with a population of less than 200,000."; and

(2) in paragraph (2), by striking "Of the amount" and all that follows through the period and inserting the following: "Of the amounts made available or appropriated under section 21(g), 90.68 percent shall be available for expenditure under this section in each fiscal year only in urbanized areas with a population of 200,000 or more.".

(b) ENERGY AND OPERATING EFFICIENCIES.—Section 9(b) is amended by adding at the end the following new paragraph:

"(4) ENERGY AND OPERATING EFFICIENCIES.—If a recipient under this section demonstrates to the satisfaction of the Secretary that energy or operating efficiencies would be achieved by actions that reduce revenue vehicle miles but provide the same frequency of revenue service to the same number of riders, the recipient's apportionment under paragraph (2)(A) shall not be reduced as a result of such actions.".

(c) EXTENSION OF SAFETY AUTHORITY TO BLOCK GRANT PROGRAM.—Section 9(e)(1) is amended by striking "and 19" and inserting "19, and 22".

(d) ANNUAL SUBMISSIONS.—Section 9(e)(2) is amended by inserting after the first sentence the following new sentences: "Such certifications and any additional certifications required by law to be submitted to the Secretary may be consolidated into a single document to be submitted annually as part of the grant application under this section. The Secretary shall annually publish in conjunction with the publication required under subsection (q) a list of all certifications required under this Act.".

(e) STREAMLINED PROCEDURES.—Section 9(e) is amended by adding at the end the following new paragraph:

"(6) STREAMLINED ADMINISTRATIVE PROCEDURES.—The Secretary shall establish streamlined administrative procedures to govern compliance with the certification requirement under paragraph (3)(B) with respect to track and signal equipment used in ongoing operations.".

(f) TRANSIT SECURITY SYSTEMS.—Section 9(e)(3) is amended—

(1) in subparagraph (G) by striking "; and" and inserting a semicolon;

(2) in subparagraph (H) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(I)(i) will expend for each fiscal year not less than 1 percent of the funds received by the recipient for each fiscal year under this section for transit security projects; or

"(ii) that such expenditures for such security systems are not necessary.

For the purposes of subparagraph (I), transit security projects may include increasing lighting within or adjacent to transit systems, including bus stops, subway stations, parking lots, and garages; increasing camera surveillance of areas within and adjacent to such systems; providing emergency telephone lines to contact law enforcement or security personnel in areas within or adjacent to such systems; and any other project intended to increase the security and safety of existing or planned transit systems.".

(g) PROGRAM OF PROJECTS.—Section 9(f) is amended— 49 USC app. 1607a.

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by inserting after paragraph (4) the following:

"(5) assure that the proposed program of projects provides for the coordination of transit services assisted under this section with transportation services assisted from other Federal sources.".

(h) DISCRETIONARY TRANSFER OF APPORTIONMENT.—Section 9 is amended—

(1) in subsection (j)(1), by inserting after the first sentence the following: "In a transportation management area designated pursuant to section 8, funds which cannot be used for payment of operating expenses under this section also shall be available for highway projects if—

"(A) such use is approved by the metropolitan planning organization in accordance with section 8 after appropriate notice and opportunity for comment and appeal is provided to affected transit providers; and

"(B) in the determination of the Secretary, such funds are not needed for investments required by the Americans with Disabilities Act of 1990."; and

(2) by adding at the end of subsection (j) the following new paragraph:

"(3) Funds under this section may be available for highway projects under title 23, United States Code, only if funds used for the State or local share of such highway projects are eligible to fund either highway or transit projects.".

(i) INFLATION ADJUSTMENT FOR OPERATING ASSISTANCE.—Section 9(k)(2)(B) is amended—

(1) by striking "1988," and inserting "1991,";

(2) by striking "of less than 200,000 population" the first place it appears; and

(3) by inserting after "calendar year" the following: "; except that such increase may not exceed the percentage increase of the funds made available under section 21(g) in the current fiscal year and the funds made available under section 21(g) in the previous fiscal year".

(j) FERRY ROUTES.—Section 9 is amended by adding at the end the following new subsections:

"(r) FERRY SERVICES.—A vessel used in ferryboat operations funded under this section that is part of a State-operated ferry system may occasionally be operated outside of the urbanized area in which service is provided to accommodate periodic maintenance if existing ferry service is not thereby significantly reduced.

"(s) GRANDFATHER OF CERTAIN URBANIZED AREAS.—Any area designated as an urbanized area under the 1980 census which is not so designated under the 1990 census—

"(1) for fiscal year 1992, shall be treated as an urbanized area for purposes of section 12(c)(11) of the Federal Transit Act; and

"(2) for fiscal year 1993, shall be eligible to receive 50 percent of the funds which the area would have received if the area were treated as an urbanized area for purposes of such section 12(c)(11) and an amount equal to 50 percent of the funds which the State in which the area is located would have received if the area were treated as an area other than an urbanized area.".

49 USC app. 1607a.

(k) ADJUSTMENTS OF APPORTIONMENTS.—Section 9 is amended by adding at the end the following new subsection:

"(t) ADJUSTMENTS OF APPORTIONMENTS.—Provided that sufficient funds are available, in each fiscal year beginning after September 30, 1991, the Secretary shall adjust apportionments under this section between the Mass Transit Account of the Highway Trust Fund and the general fund of the Treasury to assure that each recipient receives from the general fund of the Treasury not less than the amount of operating assistance made available each fiscal year under this section that such recipient is eligible to receive.".

SEC. 3014. CONTINUED ASSISTANCE FOR COMMUTER RAIL IN SOUTHERN FLORIDA UNDER SECTION 9 PROGRAM.

Section 329 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (49 U.S.C. 1607a) is amended—

(1) in the first sentence by striking "in which major onsite" and all that follows before the period; and

(2) in the second sentence by striking "provided as" and all that follows before the period.

SEC. 3015. REPEAL OF EXPIRED PROVISION.

Section 9A, relating to Mass Transit Account distribution for fiscal year 1983, is repealed.

49 USC app. 1607a–1.

SEC. 3016. TRANSIT DEFINITION.

49 USC app. 1608.

Section 12(c)(7) is amended—

(1) by striking "term" and inserting "terms"; and

(2) by striking "means" and inserting "and 'transit' mean".

SEC. 3017. RULEMAKING.

Section 12(i) is amended by adding at the end the following:

"(3) LIMITATION.—The Secretary shall propose or implement rules governing activities under this Act only in accordance with this section except for routine matters and matters with no significant impact.".

SEC. 3018. TRANSFER OF FACILITIES AND EQUIPMENT.

Section 12 is amended by adding at the end the following new subsection:

"(k) TRANSFER OF CAPITAL ASSET.—

"(1) AUTHORIZATION.—If a recipient of assistance under this Act determines that facilities and equipment and other assets (including land) acquired, in whole or part, with such assistance are no longer needed for the purposes for which they were acquired, the Secretary may authorize the transfer of such assets to any public body to be used for any public purpose with no further obligation to the Federal Government.

"(2) DETERMINATIONS.—The Secretary may authorize a transfer under paragraph (1) for any public purpose other than transit only if the Secretary first determines—

"(A) that the asset being transferred will remain in public use for not less than 5 years after the date of the transfer;

"(B) that there are no purposes eligible for assistance under this Act for which the asset should be used;

"(C) the overall benefit of allowing the transfer outweighs the Federal Government interest in liquidation and return of the Federal financial interest in the asset, after consideration of fair market value and other factors; and

"(D) that, in any case in which the asset is a facility or land, there is no interest in acquiring the asset for Federal use.

The determination under subparagraph (D) shall be made through an appropriate screening or survey process.

"(3) DOCUMENTATION.—Determinations required by paragraph (2) shall be made, in writing, and shall include the rationale for such determinations.

"(4) RELATION TO OTHER PROVISIONS.—The provisions of this section shall be in addition to and not in lieu of any other provision of law governing use and disposition of facilities and equipment under an assistance agreement.".

SEC. 3019. SPECIAL PROCUREMENT.

Section 12 is further amended by adding at the end the following:

"(l) SPECIAL PROCUREMENT INITIATIVES.—

"(1) TURNKEY SYSTEM PROCUREMENTS.—

"(A) IN GENERAL.—In order to advance new technologies and lower the cost of constructing new transit systems, the Secretary shall allow the solicitation for a turnkey system project to be funded under this Act to be conditionally awarded before Federal requirements have been met on the project so long as the award is made without prejudice to the implementation of those Federal requirements. Federal financial assistance under this Act may be made available for such a project when the recipient has complied with relevant Federal requirements.

"(B) INITIAL DEMONSTRATION PHASE.—In order to develop regulations applying generally to turnkey system projects, the Secretary is authorized to approve not less than 2 projects for an initial demonstration phase. The results of such demonstration projects (and any other projects currently using this procurement method) shall be taken into consideration in the development of the regulations implementing this subsection. Regulations.

"(C) TURNKEY SYSTEM PROJECT DEFINED.—As used in this subsection, the term 'turnkey system project' means a project under which a recipient contracts with a consortium of firms, individual firms, or a vendor to build a transit system that meets specific performance criteria and which is operated by the vendor for a period of time.

"(2) MULTIYEAR ROLLING STOCK PROCUREMENTS.—

"(A) IN GENERAL.—A recipient procuring rolling stock with Federal financial assistance under this Act may enter into a multiyear agreement for the purchase of such rolling

stock and replacement parts pursuant to which the recipient may exercise an option to purchase additional rolling stock or replacement parts for a period not to exceed 5 years from the date of the original contract.

"(B) CONSORTIA.—The Secretary shall permit 2 or more recipients to form a consortium (or otherwise act on a cooperative basis) for purposes of procuring rolling stock in accordance with this paragraph and other Federal procurement requirements.

"(3) EFFICIENT PROCUREMENT.—A recipient may award to other than the lowest bidder in connection with a procurement under this Act when such award furthers objectives which are consistent with purposes of this Act, such as improved long-term operating efficiency and lower long-term costs. Not later than 90 days after the date of the enactment of this Act, the Secretary shall (A) make such modifications to current procedures as are appropriate to make the policy set forth in this paragraph readily practicable for all transit agencies, including smaller and medium sized agencies, and (B) issue guidance clarifying and implementing such policy.".

SEC. 3020. FEDERAL SHARE FOR ADA AND CLEAN AIR ACT COMPLIANCE.

Section 12 is further amended by inserting at the end the following new subsection:

"(m) FEDERAL SHARE FOR CERTAIN PROJECTS.—A Federal grant for a project to be assisted under this Act that involves the acquisition of vehicle-related equipment required by the Clean Air Act or the Americans with Disabilities Act of 1990 shall be 90 percent of the net project cost of such equipment attributable to compliance with such Acts. The Secretary shall have discretion to determine, through practicable administrative procedures, the costs attributable to equipment specified in the preceding sentence.".

SEC. 3021. TRANSIT SERVICES FOR ELDERLY AND DISABLED INDIVIDUALS.

49 USC app. 1612.

Section 16 is amended—

(1) by striking "elderly and handicapped persons" each place it appears and inserting "elderly persons and persons with disabilities";

(2) in subsection (b)(2) by inserting "to the Governor of each State for allocation" before "to private";

(3) in subsection (b)(2) by inserting "or to public bodies approved by the State to coordinate services for elderly persons and persons with disabilities or to public bodies which certify to the Governor that no nonprofit corporations or associations are readily available in an area to provide the service under this subsection" after "inappropriate";

(4) by striking "and" at the end of subsection (b)(1), by striking the period at the end of subsection (b)(2) and inserting "; and", and by inserting after subsection (b)(2) the following:

"(3) eligible capital expenses under this section may include, at the option of the recipient, the acquisition of transportation services under a contract, lease, or other arrangement.";

(5) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively;

(6) by inserting after subsection (b) the following:

"(c) APPORTIONMENT AND USE OF FUNDS.—

"(1) STATE PROGRAM OF PROJECTS.—Funds made available for purposes of subsection (b) may be used for transportation projects to assist in the provision of transportation services for elderly persons and persons with disabilities which are included in a State program of projects. Such programs shall be submitted annually to the Secretary for approval and shall contain an assurance that the program provides for maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other Federal sources.

"(2) APPORTIONMENT.—Sums made available for expenditure for purposes of subsection (b) shall be apportioned to the States on the basis of a formula administered by the Secretary which shall take into consideration the number of elderly persons and persons with disabilities in each State.

"(3) TRANSFER OF AMOUNTS.—Any amounts of a State's apportionment under this subsection that remain available for obligation at the beginning of the 90-day period before the expiration of the period of availability of such amounts shall be available to the Governor for transfer to supplement funds apportioned to the State under section 18(a) or section 9(d).

"(4) LEASING OF VEHICLES.—The Secretary shall, not later than 60 days following the enactment of the Federal Transit Act, issue regulations to allow vehicles purchased under this section to be leased to local public bodies and agencies for the purpose of improving transportation services designed to meet the special needs of elderly persons and persons with disabilities."; and Regulations.

(7) by striking subsection (f), as redesignated by this section, and inserting the following:

"(f) MEAL DELIVERY SERVICE TO HOMEBOUND PERSONS.—Transit service providers receiving assistance under this section or section 18(a) may coordinate and assist in providing meal delivery service for homebound persons on a regular basis if the meal delivery services do not conflict with the provision of transit services or result in a reduction of service to transit passengers.".

SEC. 3022. TRANSFER OF FACILITIES AND EQUIPMENT.

Section 18 is amended by striking subsection (g) and inserting the following: 49 USC app. 1614.

"(g) TRANSFER OF FACILITIES AND EQUIPMENT.—A State may transfer facilities and equipment acquired with assistance under this section or section 16(b) to any recipient eligible to receive assistance under this Act with the consent of the recipient currently in possession of such facilities or equipment, if the facility or equipment will continue to be used in accordance with the requirements of this section or section 16(b), as the case may be.".

SEC. 3023. INTERCITY BUS TRANSPORTATION.

Section 18 is further amended by adding at the end the following new subsection:

"(i) INTERCITY BUS TRANSPORTATION.—

"(1) FUNDING OF PROGRAM.—Subject to paragraph (2), a State shall expend not less than 5 percent of the amounts made available to such State under this section in fiscal year 1992, 10 percent of such amounts in fiscal year 1993, and 15 percent of such amounts in fiscal year 1994 and each fiscal year beginning

thereafter to carry out a program for the development and support of intercity bus transportation. Eligible activities under such a program include planning and marketing for intercity bus transportation, capital grants for intercity bus shelters, joint-use stops and depots, operating grants through purchase-of-service agreements, user-side subsidies and demonstration projects, and coordination of rural connections between small transit operations and intercity bus carriers.

"(2) CERTIFICATION.—A State shall not be required to comply with paragraph (1) in any fiscal year in which the Governor certifies to the Secretary that the intercity bus service needs of the State are being adequately met.

"(3) SPECIAL RULE.—For fiscal year 1992, a State may meet the requirement of paragraph (1) by expending to carry out the program described in paragraph (1) at least 50 percent of the increase in the amount allocated to the State under this section between fiscal year 1991 and fiscal year 1992.".

SEC. 3024. USE OF POPULATION ESTIMATES.

49 USC app. 1614.

Section 18(a) is amended in the second sentence by inserting after "the latest available Federal census" the following: ", the population estimate prepared by the Secretary of Commerce following the 4th year after the date of publication of such Federal census, or the population estimate prepared by the Secretary of Commerce following the 8th year after such date of publication, whichever is the most recent.".

SEC. 3025. AUTHORIZATIONS.

49 USC app. 1617.

Section 21 is amended to read as follows:

"SEC. 21. AUTHORIZATIONS.

"(a) FORMULA GRANT PROGRAMS.—

"(1) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out sections 9B, 11(b), 12(a), 16(b), 18, 23, and 26 of this Act, $1,150,000,000 for fiscal year 1993, $1,190,000,000 for fiscal year 1994, $1,150,000,000 for fiscal year 1995, $1,110,000,000 for fiscal year 1996, and $1,920,000,000 for fiscal year 1997, to remain available until expended.

"(2) FROM GENERAL FUNDS.—In addition to the amounts specified in paragraph (1), there are authorized to be appropriated to carry out sections 9, 11(b), 12(a), 16(b), 18, 23, and 26 of this Act, and substitute transit projects under section 103(e)(4) of title 23, United States Code, $2,055,000,000 for fiscal year 1993, $1,885,000,000 for fiscal year 1994, $1,925,000,000 for fiscal year 1995, $1,965,000,000 for fiscal year 1996, and $2,430,000,000 for fiscal year 1997, to remain available until expended.

"(3) FISCAL YEAR 1992.—There shall be available from the Mass Transit Account of the Highway Trust Fund for fiscal year 1992, $409,710,000 to carry out section 9B of this Act, to remain available until expended.

"(b) SECTION 3 DISCRETIONARY AND FORMULA GRANTS.—

"(1) FROM THE TRUST FUND.—There shall be available from the Mass Transit Account of the Highway Trust Fund only to carry out section 3 of this Act, $1,725,000,000 for fiscal year 1993, $1,785,000,000 for fiscal year 1994, $1,725,000,000 for fiscal year

1995, $1,665,000,000 for fiscal year 1996, and $2,880,000,000 for fiscal year 1997, to remain available until expended.

"(2) FROM GENERAL FUNDS.—In addition to the amounts specified in paragraph (1), there are authorized to be appropriated to carry out section 3 of this Act, $305,000,000 for fiscal year 1993, $265,000,000 for fiscal year 1994, $325,000,000 for fiscal year 1995, $385,000,000 for fiscal year 1996, and $20,000,000 for fiscal year 1997, to remain available until expended.

"(3) FISCAL YEAR 1992.—There shall be available from the Mass Transit Account of the Highway Trust Fund for fiscal year 1992—

"(A) $1,345,000,000 to carry out section 3 of this Act;

"(B) $43,780,000 to carry out section 8 of this Act;

"(C) $55,000,000 to carry out section 16 of this Act;

"(D) $19,460,000 to carry out section 26(a) of this Act;

"(E) $20,050,000 to carry out section 26(b) of this Act, of which $12,000,000 shall be available only for part C of title VI of the Intermodal Surface Transportation Efficiency Act of 1991; and

"(F) $7,000,000 to carry out section 11(b) of this Act.

Such sums shall remain available until expended.

"(4) CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant or contract with funds made available under subsection (a)(1), (a)(3), (b)(1), or (b)(3) shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project. Approval by the Secretary of a grant or contract with funds made available under subsection (a)(2) or (b)(2) shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project only to the extent that amounts are provided in advance in appropriations Acts.

"(c) SET-ASIDE FOR PLANNING, PROGRAMMING, AND RESEARCH.—Before apportionment in each fiscal year of the funds made available or appropriated under subsection 8(p), an amount equivalent to 3.0 percent of funds made available or appropriated under subsections (a) and (b) shall be made available until expended as follows:

"(1) 45 percent of such funds shall be made available for metropolitan planning activities under section 8(f);

"(2) 5 percent of such funds shall be made available to carry out section 18(h);

"(3) 20 percent of such funds shall be made available to carry out the State program under section 26(a); and

"(4) 30 percent of such funds shall be made available to carry out the national program under section 26(b).

"(d) OTHER SET-ASIDES.—Before apportionment in each fiscal year of the funds made available or appropriated under subsection (a), of the funds made available or appropriated under subsections (a) and (b)—

"(1) not to exceed an amount equivalent to .96 percent shall be available for administrative expenses to carry out section 12(a) of this Act and shall be available until expended;

"(2) not to exceed an amount equivalent to 1.34 percent shall be available for transportation services to elderly persons and persons with disabilities pursuant to the formula under section 16(b) of this Act and shall be available until expended; and

"(3) $7,000,000 shall be available for the purposes of section 11(b) relating to university transportation centers for each of fiscal years 1993 through 1996.

"(e) COMPLETION OF INTERSTATE TRANSFER TRANSIT PROJECTS.—Of the amounts remaining available each year under subsections (a) and (b), after allocation pursuant to subsections (c) and (d), for substitute transit projects under section 103(e)(4) of title 23, United States Code, there shall be available $160,000,000 for fiscal year 1992 and $164,843,000 for fiscal year 1993.

"(f) SET-ASIDE FOR RURAL TRANSPORTATION.—An amount equivalent to 5.5 percent of the amounts remaining available each year under subsection (a), after allocation pursuant to subsections (c), (d), and (e), shall be available pursuant to the formula under section 18. Such sums shall remain available until expended.

"(g) SECTION 9 FUNDING.—The funds remaining available each year under subsection (a), after allocation pursuant to subsections (c), (d), (e) and (f), shall be available under section 9.".

SEC. 3026. REPORT ON SAFETY CONDITIONS IN MASS TRANSIT.

49 USC app. 1618.

Section 22 is amended—

(1) by inserting "(a) IN GENERAL.—" after "SEC. 22."; and

(2) by adding at the end a new subsection as follows:

"(b) REPORT.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall transmit to Congress a report containing—

"(1) actions taken to identify and investigate conditions in any facility, equipment, or manner of operation as part of the findings and determinations required of the Secretary in providing grants and loans under this Act;

"(2) actions taken by the Secretary to correct or eliminate any conditions found to create a serious hazard of death or injury as a condition for making funds available through grants and loans under this Act;

"(3) a summary of all passenger-related deaths and injuries resulting from unsafe conditions in any facility, equipment, or manner of operation of such facilities and equipment financed in whole or in part under this Act;

"(4) a summary of all employee-related deaths and injuries resulting from unsafe conditions in any facility, equipment, or manner of operation of such facilities and equipment financed in whole or in part under this Act;

"(5) a summary of all actions taken by the Secretary to correct or eliminate the unsafe conditions to which such deaths and injuries were attributed;

"(6) a summary of those actions taken by the Secretary to alert transit operators of the nature of the unsafe conditions which were found to create a serious hazard of death or injury; and

"(7) recommendations to the Congress by the Secretary of any legislative or administrative actions necessary to ensure that all recipients of funds under this Act will institute the best means available to correct or eliminate hazards of death or injury, including—

"(A) a timetable for instituting actions,

"(B) an estimate of the capital and operating cost to take such actions, and

"(C) minimum standards for establishing and implementing safety plans by recipients of funds under this Act.".

SEC. 3027. PROJECT MANAGEMENT OVERSIGHT.

49 USC app. 1619.

Section 23(a) is amended—

(1) by striking paragraphs (1) through (5);

(2) by striking "½ of 1 percent of—" and inserting the following:

"½ of 1 percent of the funds made available for any fiscal year to carry out sections 3, 9, or 18 of this Act, or interstate transfer transit projects under section 103(e)(4) of title 23, United States Code, as in effect on September 30, 1991, or a project under the National Capital Transportation Act of 1969 to contract with any person to oversee the construction of any major project under any such section. In addition to such amounts, the Secretary may as necessary use not more than ¼ of 1 percent of the funds made available in any fiscal year to carry out a major project under section 3 to contract with any person to oversee the construction of such major project.".

SEC. 3028. NEEDS SURVEY.

The Act is amended by inserting after section 26 the following new section:

"SEC. 27. NEEDS SURVEY AND TRANSFERABILITY STUDY.

Reports. 49 USC app. 1623.

"(a) NEEDS SURVEY.—In January 1993 and in January of every second year thereafter, the Comptroller General shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report containing an evaluation of the extent to which current transit needs are adequately addressed and an estimate of the future transit needs of the Nation, including transit needs in rural areas (particularly access to health care facilities). Such report shall include the following:

"(1) An assessment of needs related to rail modernization, guideway modernization, replacement, rehabilitation, and purchase of buses and related equipment, construction of bus related facilities, and construction of new fixed guideway systems and extensions to fixed guideway systems.

"(2) A 5-year projection of the maintenance and modernization needs that will result from aging of existing equipment and facilities, including the need to overhaul or replace existing bus fleets and rolling stock used on fixed guideway systems.

"(3) A 5-year projection of the need to invest in the expansion of existing transit systems to meet changing economic, commuter, and residential patterns.

"(4) An estimate of the level of expenditure needed to satisfy the needs identified above.

"(5) An examination of existing Federal, State, and local resources as well as private resources that are or can reasonably be expected to be made available to support public transit.

"(6) The gap between the level of expenditure estimated under paragraph (4) and the level of resources available to meet such needs identified under paragraph (5).

"(b) TRANSFERABILITY STUDY.—

"(1) IN GENERAL.—In January 1993 and in January of every second year thereafter, the Comptroller General shall transmit

to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on implementation of the transferability provisions of section 9(j)(3) of this Act.

"(2) CONTENTS.—The report shall identify, by State, the amount of transit funds transferred for nontransit purposes under such sections during the previous fiscal year and shall include an assessment of the impact of such transfers on the transit needs of individuals and communities within the State. Specifically, the report shall assess the impact of such transfers (A) on the State's ability to meet the transit needs of elderly individuals and individuals with disabilities, (B) on efforts to meet the objectives of the Americans With Disabilities Act of 1990 and the Clean Air Act, and (C) on the State's efforts to extend public transit services to unserved rural areas. The report shall also include an examination of the relative levels of Federal transit assistance and services in urban and rural areas in fiscal year 1991 and the extent to which such assistance and service has increased or decreased in subsequent fiscal years as a result of transit resources made available under this Act and the Intermodal Surface Transportation Efficiency Act of 1991.".

SEC. 3029. STATE RESPONSIBILITY FOR FIXED GUIDEWAY SYSTEM SAFETY.

The Act is amended by inserting after section 27 the following new section:

49 USC app. 1624.

"SEC. 28. STATE RESPONSIBILITY FOR FIXED GUIDEWAY SYSTEM SAFETY.

"(a) WITHHOLDING OF FUNDS FOR NONCOMPLIANCE.—The Secretary may withhold up to 5 percent of the amount required to be apportioned for use in any State or urbanized area in such State under section 9 for any fiscal year beginning after September 30, 1994, if the State in the previous fiscal year has not met the requirements of subsection (b) and the Secretary determines that the State is not making adequate efforts to comply with such subsection.

"(b) STATE REQUIREMENTS.—A State meets the requirements of this section if—

"(1) the State establishes and is implementing a safety program plan for each fixed guideway transit system in the State which establishes, at a minimum, safety requirements, lines of authority, levels of responsibility and accountability, and methods of documentation for such system;

"(2) the State designates an agency of the State with responsibility to—

"(A) require, review and approve, and monitor implementation of such plans; and

"(B) investigate hazardous conditions and accidents on such systems and require corrective actions to correct or eliminate such conditions; and

"(3) in any case in which more than 1 State would be subject to this section in connection with a single transit agency, the affected States may designate an entity other than the transit agency to ensure uniform safety standards and enforcement and to meet the requirements of this subsection.

"(c) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

"(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—Any funds withheld under subsection (a) from apportionment for use in any State in a fiscal year, shall remain available for apportionment for use in such State until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment for use in a State under paragraph (1), the State meets the requirements of subsection (b), the Secretary shall, on the first day on which the State meets the requirements of subsection (b), apportion to the State the funds withheld under subsection (a) that remain available for apportionment for use in the State.

"(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure until the end of the third fiscal year succeeding the fiscal year in which such funds are apportioned pursuant to paragraph (2). Sums not obligated at the end of such period shall be apportioned for use in other States under section 9 of this Act.

"(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment for use in a State under paragraph (1), the State does not meet the requirements of subsection (b), such funds shall be apportioned for use in other States under section 9 of this Act.

"(d) LIMITATION ON APPLICABILITY.—This section only applies to States that have rail fixed guideway mass transportation systems which are not subject to regulation by the Federal Railroad Administration.

"(e) REGULATIONS.—Not later than 1 year after the date of the enactment of this section, the Secretary shall issue regulations which set forth the requirements for complying with subsection (b).".

SEC. 3030. PLANNING AND RESEARCH.

The Act is amended by inserting after section 25 the following:

"SEC. 26. PLANNING AND RESEARCH PROGRAM.

49 USC app. 1622.

"(a) STATE PROGRAM.—The funds made available under section 21(c)(3) shall be available for State programs as follows:

"(1) TRANSIT COOPERATIVE RESEARCH PROGRAM.—50 percent of that amount shall be available for the transit cooperative research program to be administered as follows:

"(A) INDEPENDENT GOVERNING BOARD.—The Secretary shall establish an independent governing board for such program to recommend mass transportation research, development, and technology transfer activities as the Secretary deems appropriate.

"(B) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities as the Secretary determines are appropriate.

"(2) STATE PLANNING AND RESEARCH.—The remaining 50 percent of that amount shall be apportioned to the States for

grants and contracts consistent with the purposes of sections 6, 8, 10, 11, and 20 of this Act.

"(A) APPORTIONMENT FORMULA.—Amounts shall be apportioned to the States in the ratio which the population in urbanized areas in each State bears to the total population in urbanized areas, in all the States as shown by the latest available decennial census, except that no State shall receive less than ½ of 1 percent of the amount apportioned under this section.

"(B) ALLOCATION WITHIN A STATE.—A State may authorize a portion of its funds made available under this subsection to be used to supplement funds available under subsection (a)(1), as the State deems appropriate.

"(b) NATIONAL PROGRAM.—

"(1) IN GENERAL.—The funds made available under section 21(c)(4), shall be available to the Secretary for grants or contracts for the purposes of section 6, 8, 10, 11, or 20 of this Act, as the Secretary deems appropriate.

"(2) COMPLIANCE WITH ADA.—Of the amounts available under paragraph (1), the Secretary shall make available not less than $2,000,000 to provide transit-related technical assistance, demonstration programs, research, public education, and other activities that the Secretary deems appropriate to help transit providers achieve compliance with the Americans with Disabilities Act of 1990. To the extent practicable, the Secretary shall carry out this subsection through contract with a national nonprofit organization serving persons with disabilities with demonstrated capacity to carry out these activities.

Contracts.

"(3) SPECIAL INITIATIVES.—Of the amounts available under paragraph (1), an amount not to exceed 25 percent shall be available to the Secretary for special demonstration initiatives subject to such terms, conditions, requirements, and provisions as the Secretary deems consistent with the requirements of this Act, except that the provisions of section 3(e)(4) shall apply to operational grants funded for purposes of section 6. For nonrenewable grants that do not exceed $100,000, the Secretary shall provide expedited procedures governing compliance with requirements of this Act.

"(4) TECHNOLOGY DEVELOPMENT.—

"(A) PROGRAM.—The Secretary is authorized to undertake a program of transit technology development in coordination with affected entities.

"(B) INDUSTRY TECHNICAL PANEL.—The Secretary shall establish an Industry Technical Panel consisting of representatives of transportation suppliers and operators and others involved in technology development. A majority of the Panel members shall represent the supply industry. The Panel shall assist the Secretary in the identification of priority technology development areas and in establishing guidelines for project development, project cost sharing, and project execution.

"(C) GUIDELINES.—The Secretary shall develop guidelines for cost sharing in technology development projects funded under this section. Such guidelines shall be flexible in nature and reflect the extent of technical risk, market risk, and anticipated supplier benefits and pay back periods.

"(5) ADVANCED FARE COLLECTION TECHNOLOGY PILOT PROJECT.—From amounts authorized under section 21(c)(4), the Secretary shall make available $1,000,000 in fiscal year 1992 for the purpose of conducting a pilot project to evaluate, develop, and test advanced fare technology systems. Such project shall be carried out by the Washington Metropolitan Transit Authority.

"(6) INERTIAL NAVIGATION TECHNOLOGY TRANSFER.—

"(A) PROJECT.—There is authorized to be appropriated from amounts made available under section 21(c), $1,000,000 for fiscal year 1992 to support an inertial navigation system demonstration project for the purpose of determining the safety, economic, and environmental benefits of deploying inertial navigation tracking and control systems in urban and rural environments.

"(B) PUBLIC-PRIVATE SECTOR PARTICIPANTS.—The project described in subparagraph (A) shall be conducted by the Transit Safety Research Alliance, a nonprofit public-private sector consortium based in Pittsburgh, Pennsylvania.

"(7) SUPPLEMENTARY FUNDS.—The Secretary may use funds appropriated under this subsection to supplement funds available under subsection (a)(1), as the Secretary deems appropriate.

"(8) FEDERAL SHARE.—Where there would be a clear and direct financial benefit to an entity under a grant or contract funded under this subsection or subsection (a)(1), the Secretary shall establish a Federal share consistent with that benefit.

"(c) SUSPENDED LIGHT RAIL SYSTEM TECHNOLOGY PILOT PROJECT.—

"(1) FULL FUNDING GRANT AGREEMENT.—Not later than 60 days after the fulfillment of the requirements under paragraph (5), the Secretary shall negotiate and enter into a full funding grant agreement under section 3 with a public entity selected under paragraph (4) for construction of a suspended light rail system technology pilot project.

"(2) PROJECT PURPOSE.—The purpose of the project under this subsection shall be to assess the state of new technology for a suspended light rail system and to determine the feasibility and costs and benefits of using such a system for transporting passengers.

"(3) PROJECT DESCRIPTION.—The project under this subsection shall—

"(A) utilize new rail technology with individual vehicles on a prefabricated, elevated steel guideway;

"(B) be stability seeking with a center of gravity for the detachable passenger vehicles located below the point of wheel-rail contact; and

"(C) utilize vehicles which are driven by overhead bogies with high efficiency, low maintenance electric motors for each wheel, operating in a slightly sloped plane from vertical for both the wheels and the running rails, to further increase stability, acceleration, and braking performance.

"(4) COMPETITION.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall conduct a national competition to select a public entity with which to enter into a full funding grant agreement under paragraph (1) for construction of the project under this subsection. Grants. Contracts.

"(B) PUBLICATION OF NOTICE.—Not later than 30 days after the date of the enactment of this Act, the Secretary Federal Register, publication.

shall publish in the Federal Register notice of the competition to be conducted under this paragraph, together with procedures for public entities to participate in the competition.

"(C) SELECTION OF FINALISTS.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall select 3 public entities to be finalists in the competition under this paragraph.

"(D) AWARD OF GRANTS.—The Secretary shall award grants to each of the finalists selected under subparagraph (C). Such grants shall be used by the finalists to participate in the final phase of the competition under this paragraph in accordance with procedures to be established by the Secretary. The amount of such grants shall not exceed 80 percent of the costs of such participation. No finalists may receive more than 1/3 of the amount made available under paragraph (9)(C).

Grants. Contracts.

"(E) SELECTION OF WINNER.—Not later than 210 days after the date of the enactment of this Act, the Secretary shall select from among the finalists selected under subparagraph (C) the public entity with which to enter into a full funding grant agreement under paragraph (1).

"(F) CONSIDERATIONS.—In conducting the competition and selecting public entities under this paragraph, the Secretary shall consider the following:

"(i) The public entity's demonstrated understanding and knowledge of the project under this section.

"(ii) The public entity's technical, managerial, and financial capacity to undertake construction, management, and operation of the project.

"(iii) Maximization of potential contributions to the cost of the project by State, local, and private sector entities, including the donation of in-kind services and materials.

Federal Register, publication.

"(5) EXPEDITED PROCEDURES.—Not later than 270 days after the date of selection of a public entity under paragraph (4), the Secretary shall approve and publish in the Federal Register a notice announcing either (A) a finding of no significant impact, or (B) a draft environmental impact statement for the project under this subsection. The alternative analysis for the project shall include a determination as to whether or not to actually construct such project. If a draft environmental impact statement is published, the Secretary shall, not later than 180 days after the date of such publication, approve and publish in the Federal Register a notice of completion of a final environmental impact statement. The project shall not be subject to the major capital investment policy of the Federal Transit Administration.

"(6) NOTICE TO PROCEED WITH CONSTRUCTION.—Not later than 30 days following the execution of the full funding grant agreement under paragraph (1), the Secretary shall issue a notice to proceed with construction.

"(7) OPTION NOT TO CONSTRUCT.—Not later than the 30th day following the completion of preliminary engineering and design for the project, the public entity selected under paragraph (1) will make a determination on whether or not to proceed to

actual construction of the project. If such public entity makes a determination not to proceed to such actual construction—

"(A) the Secretary shall not enter into the grant agreement under paragraph (1);

"(B) any remaining sums received shall be returned to the Secretary and credited to the Mass Transit Account of the Highway Trust Fund; and

"(C) the Secretary shall use the amount so credited and all other amounts to be provided under this section to award to entities selected under paragraph (4)(E) grants under section 3 for construction of the project described in paragraph (1).

Any grants under subparagraph (C) shall be awarded after completion of a competitive process for selection of a grant recipient. Such process shall be completed not later than the 60th day following the date of the determination under this subsection.

"(8) OPERATING COST DEFICITS.—The full funding grant agreement under paragraph (1) shall provide that—

"(A) the system vendor for the project under this section shall fund 100 percent of any deficit incurred in operating the project in the first two years of revenue operations of the project; and

"(B) the system vendor for the project under this section shall fund 50 percent of any deficit incurred in operating the project in the third year of revenue operations of the project.

"(9) FUNDING.—

"(A) PRECONSTRUCTION.—If the systems planning, alternatives analysis, preliminary engineering, and design and environmental impact statement are required by law for the project under this subsection, the Secretary shall pay by grant the Federal share of such costs (as determined under section 3) from amounts provided under such section as follows: not less than $4,000,000 for fiscal year 1993. Such funds shall remain available until expended.

"(B) CONSTRUCTION.—The grant agreement under paragraph (1) shall provide that the Federal share of the construction costs of the project under this section shall be paid by the Secretary from amounts provided under section 3 as follows: not less than $30,000,000 for fiscal year 1994. Such funds shall remain available until expended.

"(C) GRANTS.—Grants under paragraph (4) shall be paid by the Secretary from amounts provided under section 3 as follows: not less than $1,000,000 for fiscal year 1992. Any amounts not expended for such grants shall be available for the Federal share of costs described in subparagraphs (A) and (B).

"(D) OPERATION.—Notwithstanding any other provision of law, the grant agreement under paragraph (1) shall provide with respect to the third year of revenue operations of the project under this subsection that the Federal share of operating costs of the project shall be paid by the Secretary from amounts provided under this section in a sum equal to 50 percent of any deficit incurred in operating the project in such year of revenue operations or $300,000, whichever is less.

"(10) FEDERAL SHARE.—The Federal share of the cost of construction of the project under this subsection shall be 80 percent of the net cost of the project.

"(11) REPORT.—Not later than January 30, 1993, and annually thereafter, the Secretary shall transmit to Congress a report on the progress and results of the project under this subsection.".

SEC. 3031. NEW JERSEY URBAN CORE PROJECT.

(a) CONTRACTUAL COMMITMENTS.—

(1) FULL FUNDING GRANT AGREEMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall negotiate and enter into a full funding grant agreement under section 3 of the Federal Transit Act for those elements of the New Jersey Urban Core Project which can be fully funded in fiscal years 1992 through 1997. Such grant agreement shall not preclude the allocation of Federal funds for those elements of the project not covered under such grant agreement.

(2) PAYMENT.—The grant agreement under paragraph (1) shall provide that the Federal share of the cost of the New Jersey Urban Core Project shall be paid by the Secretary from amounts provided under section 3 of the Federal Transit Act as follows:

(A) Not less than $95,900,000 for fiscal year 1992.
(B) Not less than $71,700,000 for fiscal year 1993.
(C) Not less than $64,800,000 for fiscal year 1994.
(D) Not less than $146,000,000 for fiscal year 1995.
(E) Not less than a total of $256,000,000 for fiscal years 1996 and 1997.

Nothing in this section shall be construed as precluding other Federal funds from being committed to the project.

(b) NON-FEDERAL SHARE.—Notwithstanding any other provision of law, for the purpose of calculating non-Federal contributions to the net cost of the New Jersey Urban Core Project, the Secretary shall include all non-Federal contributions made on or after January 1, 1987, for construction of any element of the project. Non-Federal funds committed to one element of the project may be used to meet the non-Federal share requirement for any other element of the project.

(c) EXEMPTION FROM CERTAIN REQUIREMENTS.—The requirements contained in section 3(i) of the Federal Transit Act (relating to criteria for new starts) shall not apply with respect to the New Jersey Urban Core Project; except that an alternative analysis and draft environmental impact statement shall be completed with respect to the Hudson River Waterfront element of the project and the Secretary shall approve the recommended locally preferred alternative for such element. No element of the project shall be subject to the major capital investment policy of the Federal Transit Administration.

New York.

(d) ELEMENTS OF URBAN CORE PROJECT.—For the purposes of this section, the New Jersey Urban Core Project consists of the following elements: Secaucus Transfer, Kearny Connection, Waterfront Connection, Northeast Corridor Signal System, Hudson River Waterfront Transportation System, Newark-Newark International Airport-Elizabeth Transit Link, a rail connection between Penn Station Newark and Broad Street Station, Newark, New York Penn Station Concourse, and the equipment needed to operate revenue service associated with improvements made by the project. The

project includes elements advanced with 100 percent non-Federal funds.

SEC. 3032. MULTIYEAR FUNDING FOR SAN FRANCISCO BAY AREA RAIL EXTENSION PROGRAM.

(a) DRAFT ENVIRONMENTAL IMPACT STATEMENT.—

(1) COMPLETION DEADLINE.—Not later than 60 days after the date of the enactment of this Act and in accordance with the National Environmental Policy Act of 1969, the Secretary shall complete a draft environmental impact statement for an extension of the San Francisco Bay Area Rapid Transit District (hereinafter in this section referred to as "BART") to the San Francisco International Airport.

(2) NOTICE OF AVAILABILITY AND REPORTING.—The Secretary shall publish a notice of availability of the draft environmental impact statement for public review. If the Secretary has not published such notice on or before the 60th day following the date of the enactment of this Act, the Secretary shall report to Congress on the status of the completion of such draft environmental impact statement. The Secretary shall continue to report to such committees every 30 days on the status of the completion of the draft environmental impact statement, including any proposed revisions to the statement or to the work plan, until a notice of availability of such document is published in the Federal Register.

Federal Register, publication.

(b) PRELIMINARY ENGINEERING GRANT.—

(1) TO BART.—Not later than 30 days after the date of submittal of a locally preferred alternatives report and notwithstanding any other provision of law, the Secretary shall make a grant to BART to conduct preliminary engineering and to complete an environmental impact statement on the locally preferred alternative for the extension of BART to the San Francisco International Airport. The amount of such grant shall be 75 percent of preliminary engineering costs, unless the matching percentage is increased by a modification to Metropolitan Transportation Commission Resolution No. 1876 in a manner that would allow such Federal share to be increased to 80 percent.

(2) TO SANTA CLARA COUNTY.—Not later than 30 days after the date of the enactment of this Act and notwithstanding any other provision of the law, the Secretary shall make a grant to the Santa Clara County Transit District (hereinafter in this section referred to as "SCCTD") to conduct preliminary engineering and to complete an environmental impact statement in accordance with the National Environmental Policy Act of 1969 on the locally preferred alternative for the Tasman Corridor Project. The amount of such grant shall be $12,750,000; except that the Federal share for all project costs may not exceed 50 percent, unless the matching percentage is increased by a modification to Metropolitan Transportation Commission Resolution No. 1876 in a manner that would allow such Federal share to be increased to 80 percent. Local funds expended on the Tasman Corridor Project after the locally preferred alternative was approved by the Metropolitan Transportation Commission on July 31, 1991, shall be considered eligible project costs under the Federal Transit Act.

(c) CONTRACTUAL COMMITMENTS.—

(1) APPROVAL OF CONSTRUCTION.—Notwithstanding any other provision of law, the Secretary shall approve the construction of the locally preferred alternative for the BART San Francisco International Airport Extension (Phase 1a to Colma and Phase 1b to San Francisco Airport) and the Tasman Corridor Project according to the following schedule; provided that the Secretary does not grant approval under subparagraphs (A), (B), and (C) before the 30th day after completion of the environmental impact statement:

(A) Not later than 90 days after the date of the enactment of this Act, the Secretary shall approve such construction for BART Phase 1a to Colma.

(B) Not later than 90 days after the date of the completion of preliminary engineering, the Secretary shall approve such construction for BART Phase 1b to San Francisco International Airport.

(C) Not later than 90 days after the date of the completion by SCCTD of preliminary engineering, the Secretary shall approve such construction for the Tasman Corridor Project.

Grants.

(2) EXECUTION OF CONTRACT.—Upon approving construction under paragraph (1), the Secretary shall execute a multiyear grant agreement with BART to permit the expenditure of funds for the construction of the BART San Francisco International Airport Extension (Phase 1a and Phase 1b) and with SCCTD for the construction of the Tasman Corridor Project.

(d) FEDERAL SHARE.—

(1) BART EXTENSION.—The grant agreement under subsection (c)(2) shall provide that the Federal share of the project cost for the locally preferred alternative for the BART San Francisco International Airport Extension (Phase 1a and Phase 1b) shall be 75 percent, unless the matching percentage is increased by a modification to Metropolitan Transportation Commission Resolution No. 1876 in a manner that would allow such Federal share to be increased to 80 percent.

(2) TASMAN CORRIDOR PROJECT.—The grant agreement under subsection (c)(2) shall provide that the Federal share of the project cost for the locally preferred alternative for the Tasman Corridor Project, including costs for preliminary engineering, shall be 50 percent, unless that matching percentage is increased by a modification to Metropolitan Transportation Commission Resolution No. 1876 in a manner that would allow such Federal share to be increased to 80 percent.

(e) PAYMENT.—The grant agreement under subsection (c)(2) shall provide that the Federal share of the cost of the projects shall be paid by the Secretary from amounts provided under section 3 of the Federal Transit Act for construction of new fixed guideway systems and extensions to fixed guideway systems, as follows:

(1) Not less than $28,500,000 for fiscal year 1990.

(2) Not less than $40,000,000 for fiscal year 1991.

(3) Not less than $100,000,000 for each of fiscal years 1992 through 1995.

(4) Not less than $100,000,000 for fiscal years 1996 and 1997.

Apportionment of payments between BART and SCCTD shall be consistent with the Metropolitan Transportation Commission Resolution No. 1876.

(f) ADVANCE CONSTRUCTION.—The grant agreements under subsection (c)(2) shall provide that the Secretary shall reimburse BART

and SCCTD from any amounts provided under section 3 of the Federal Transit Act for fiscal years 1992 through 1997 for the Federal share of the net project costs incurred by BART and SCCTD under subsections (c)(1) and (c)(2), including the amount of any interest earned and payable on bonds as provided in section 3(l)(2) of the Federal Transit Act, as follows:

(1) Not later than September 30, 1994, the Secretary shall reimburse BART and SCCTD a total of $368,500,000 (plus such interest), less amounts provided under subsection (e) for fiscal years 1992 through 1994.

(2) Not later than September 30, 1997, the Secretary shall reimburse BART and SCCTD a total of $568,500,000 (plus such interest), less amounts provided under subsection (e) for fiscal years 1992 through 1997.

(g) FULL FUNDING GRANT AGREEMENTS.—

(1) SCHEDULE.—Notwithstanding any other provision of law, the Secretary shall negotiate and execute full funding grant agreements that are consistent with Metropolitan Transportation Commission Resolution No. 1876 with BART for Phase 1a to Colma and Phase 1b to the San Francisco International Airport, and with SCCTD for the Tasman Corridor Project according to the following schedule:

(A) Not later than 90 days after the date of completion by SCCTD of preliminary engineering, the Secretary shall execute such agreement for the Tasman Corridor Project.

(B) Upon completion by BART of 85 percent of final design, the Secretary shall execute such agreement for Phase 1a to Colma.

(C) Upon completion by BART of 85 percent of final design, the Secretary shall execute such agreement for Phase 1b to the San Francisco International Airport.

(2) ADDITIONAL AMOUNTS.—In addition to the $568,500,000 provided under this section, the Secretary shall, subject to annual appropriations, issue full funding grant agreements to complete the projects utilizing the full amount of the unobligated balance in the Mass Transit Account of the Highway Trust Fund.

(h) ALTERNATIVES ANALYSIS.—The Secretary shall permit the Santa Clara County Transit District, in cooperation with the Metropolitan Transportation Commission, to conduct an Alternatives Analysis to examine transit alternatives including a possible BART extension from southern Alameda County through downtown San Jose to Santa Clara, California.

SEC. 3033. QUEENS LOCAL/EXPRESS CONNECTION.

(a) FULL FUNDING GRANT AGREEMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall negotiate and enter into a full funding grant agreement under section 3 of the Federal Transit Act for those elements of the Queens Local/Express Connection which can be fully funded in fiscal years 1992 through 1997. Such grant agreement shall not preclude the allocation of Federal funds for those elements of the project not covered under such grant agreement.

(b) PAYMENT.—The grant agreement under subsection (a) shall provide that the Federal share of the cost of the Queens Local/Express Connection shall be paid by the Secretary from amounts

provided under section 3(k)(1)(B) of the Federal Transit Act as follows:

(1) Not less than $11,000,000 for fiscal year 1992.
(2) Not less than $18,700,000 for fiscal year 1993.
(3) Not less than $77,800,000 for fiscal year 1994.
(4) Not less than $76,800,000 for fiscal year 1995.
(5) Not less than $121,800,000 for fiscal year 1996.

Nothing in this section shall be construed as precluding other Federal funds from being committed to the project.

SEC. 3034. MULTIYEAR CONTRACT FOR METRO RAIL PROJECT.

Federal Register, publication.

(a) SUPPLEMENTAL EIS.—Not later than April 1, 1992, and in accordance with the National Environmental Policy Act of 1969, the Secretary shall complete preparation of a final supplemental environmental impact statement for Minimum Operable Segment-3 (other than the East Side Extension) and publish a notice of the completion of such statement in the Federal Register. Such statement shall reflect any alignment changes in the Los Angeles Metro Rail Project and any determination of an amended locally preferred alternative for the project. In preparing such statement, the Secretary shall rely, to the maximum extent feasible, upon existing environmental studies and analyses conducted with respect to the project, including the Draft Supplemental Environmental Impact Statement (dated November 1987) and the Final Supplemental Environmental Impact Statement (dated July 1989).

(b) AMENDMENT TO CONTRACT TO INCLUDE CONSTRUCTION OF MOS-3.—

(1) NEGOTIATION.—Not later than April 1, 1992, the Secretary shall begin negotiations with the Commission on an amendment to the full funding contract under section 3 of the Federal Transit Act (dated April 1990) for construction of Minimum Operable Segment-2 of the Los Angeles Metro Rail Project in order to include construction of Minimum Operable Segment-3 (including the commitment described in paragraph (4) to provide Federal funding for the East Side Extension) in such contract.

(2) EXECUTION.—Not later than October 15, 1992, the Secretary shall—

(A) complete negotiations and execute the amended contract under paragraph (1); and

(B) issue a record of decision approving the construction of Minimum Operable Segment-3 (other than the East Side Extension).

(3) PAYMENT OF FEDERAL SHARE.—

(A) FEDERAL SHARE.—The amended contract under paragraph (1) shall provide that the Federal share of the cost of construction of Minimum Operable Segment-3 for fiscal years 1993 through 1997 shall be $695,000,000.

(B) PAYMENT.—The amended contract under paragraph (1) shall provide that the Federal share of the cost of construction of Minimum Operable Segment-3 shall be paid by the Secretary from amounts available under section 3 of the Federal Transit Act in accordance with a schedule for annual payments set forth in such contract.

(4) EAST SIDE EXTENSION.—The amended contract under paragraph (1) shall include a commitment to provide Federal funding for the East Side Extension, subject to completion of

alternatives analysis and satisfaction of Federal environmental requirements.

(5) ADVANCE CONSTRUCTION.—

(A) IN GENERAL.—The amended contract under paragraph (1) shall provide that the Commission may construct any portion of Minimum Operable Segment-3 in accordance with section 3(l) of the Federal Transit Act.

(B) AMOUNT.—The Commission may use advance construction authority in an amount not to exceed the sum of $535,000,000 plus the difference (if any) between the Federal share specified in paragraph (3) for fiscal years 1993 through 1997 and the amount of Federal funds actually provided in those fiscal years.

(C) CONVERSION TO GRANTS.—In the event the Commission uses advance construction authority under this paragraph, the Secretary shall convert that authority into a grant and shall reimburse the Commission, from funds available under section 3 of the Federal Transit Act, for the Federal share of the amounts expended. Such conversion and reimbursement shall be made by the Secretary in fiscal years 1998, 1999, and 2000 and shall be equal to the Federal share of the amounts expended by the Commission pursuant to this paragraph (plus any eligible bond interest under section 3(l)(2) of the Federal Transit Act).

(c) FURTHER AMENDMENT TO CONTRACT.—Not later than October 15, 1996, the Secretary shall negotiate and enter into a further amendment to the contract described in subsection (b)(1) in order to provide Federal funding for Minimum Operable Segment-3 for fiscal years 1998 through 2000. The amended contract shall include provisions for the use and reimbursement of advance construction in the manner set forth in subsection (b)(5).

(d) CONTINUING PRELIMINARY ENGINEERING.—Before the date on which an amended contract is executed under subsection (b), the Secretary shall, upon receipt of an application from the Commission, make a grant to the Commission from amounts available under section 3 of the Federal Transit Act for continuing preliminary engineering and environmental analysis work for Minimum Operable Segment-3. Grants.

(e) ADDITION OF EAST SIDE EXTENSION.—

(1) ALTERNATIVES ANALYSIS AND ENVIRONMENTAL REVIEW.—The Secretary shall cooperate with the Commission in alternatives analysis and environmental review, including preparation of a draft environmental impact statement, for the East Side Extension. Upon receipt of an application from the Commission, the Secretary shall make a grant to the Commission, from amounts available under section 3 of the Federal Transit Act, for preliminary engineering, design, and related expenses for the East Side Extension, in an amount equal to 50 percent of the cost of such activities. Such funds shall be provided from the amounts made available by the Secretary under subsection (b)(3). Grants.

(2) SUPPLEMENTAL EIS.—Not later than December 1, 1993, and in accordance with the National Environmental Policy Act of 1969, the Secretary shall complete preparation of a final supplemental environmental impact statement for the East Side Extension and shall publish a notice of completion of such statement in the Federal Register. Federal Register, publication.

(3) AMENDMENT TO CONTRACT TO INCLUDE EAST SIDE EXTENSION.—

(A) NEGOTIATION.—Immediately upon the completion of alternatives analysis and preliminary engineering for the East Side Extension, the Secretary shall begin negotiations with the Commission on a further amendment to the contract referred to in subsection (b)(1) in order to include construction of the East Side Extension.

(B) EXECUTION.—Not later than June 1, 1994, the Secretary shall—

(i) complete negotiations and execute the amended contract under subparagraph (A); and

(ii) issue a record of decision approving the construction of the East Side Extension.

(C) CONTENTS.—The amended contract under subparagraph (A) shall be consistent with the commitment made under subsection (b)(4) and shall include appropriate changes to the existing scope of work to include the East Side.

(f) APPLICABILITY OF FEDERAL REQUIREMENTS.—The amended contracts under this section shall provide that any activity under Minimum Operable Segment-3 that is financed entirely with non-Federal funds shall not be subject to any Federal statute, regulation, or program guidance, unless the Federal statute or regulation in question, by its terms, otherwise applies to and covers such activity.

(g) CRITERIA FOR NEW STARTS.—Minimum Operable Segment-3 shall be deemed to be a project described in and covered by section 303(b) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

Reports.

(h) NOTIFICATION OF NONCOMPLIANCE.—If the Secretary is unable to comply with a deadline established by this section, the Secretary shall report to Congress on the reasons for the noncompliance and shall provide such Committees a firm schedule for taking the action required.

(i) DEFINITIONS.—For the purposes of this section, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the Los Angeles County Transportation Commission (or any successor thereto).

(2) EAST SIDE EXTENSION.—The term "East Side Extension" means that portion of Minimum Operable Segment-3 described in paragraph (3)(C).

(3) MINIMUM OPERABLE SEGMENT-3.—The term "Minimum Operable Segment-3" means that portion of the Los Angeles Metro Rail Project which consists of 7 stations and approximately 11.6 miles of heavy rail subway on the following lines:

(A) One line running west and northwest from the Hollywood/Vine station to the North Hollywood station, with 2 intermediate stations.

(B) One line running west from the Wilshire/Western station to the Pico/San Vicente station, with one intermediate station.

(C) One line consisting of an initial line of approximately 3 miles in length, with at least 2 stations, beginning at Union Station and running generally east.

SEC. 3035. MISCELLANEOUS MULTIYEAR CONTRACTS. Grants.

(a) HAWTHORNE, NEW JERSEY-WARWICK, NEW YORK, SERVICE.—No later than 120 days after the date of the enactment of this Act, the Secretary shall negotiate and sign a multiyear grant agreement with the New Jersey Transit Corporation which includes not less than $35,710,000 in fiscal year 1992 and not less than $11,156,000 in fiscal year 1993 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of a project to provide commuter rail service from Hawthorne, New Jersey, to Warwick, New York (including a connection with the New Jersey Transit Main Line in Hawthorne, New Jersey, and improvements to the New Jersey Transit Main Line station in Paterson, New Jersey). Such agreement shall provide that amounts provided under the agreement may be used for purchasing equipment and for rehabilitating and constructing stations, parking facilities, and other facilities necessary for the restoration of such commuter rail service.

(b) WESTSIDE LIGHT RAIL PROJECT.—No later than April 30, 1992, Oregon.
the Secretary shall negotiate and sign a multiyear grant agreement with the Tri-County Metropolitan Transportation District of Oregon which includes $515,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act at the Federal share contained in House Report 101-584 to carry out the construction of the locally preferred alternative for the Westside Light Rail Project, including system related costs, set forth in Public Law 101-516 and as defined in House Report 101-584. Such agreement shall also provide for the completion of alternatives analysis, the final Environmental Impact Analysis, and preliminary engineering for the Hillsboro extension to the Westside Project as set forth in Public Law 101-516.

(c) NORTH BAY FERRY SERVICE.—No later than April 30, 1992, the California.
Secretary shall negotiate and sign a multiyear grant agreement with the City of Vallejo, California, which includes $8,000,000 in fiscal year 1992 and $9,000,000 in fiscal year 1993 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out capital improvements under the North Bay Ferry Service Demonstration Program.

(d) STATEN ISLAND-MIDTOWN MANHATTAN FERRY SERVICE.—No New York.
later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the New York City Department of Transportation in New York, New York, which includes $1,000,000 in fiscal year 1992 and $11,000,000 in fiscal year 1993 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out capital improvements under the Staten Island-Midtown Ferry Service Demonstration Program.

(e) CENTRAL AREA CIRCULATOR PROJECT.—No later than April 30, Illinois.
1992, the Secretary shall negotiate and sign a multiyear grant agreement with the City of Chicago, Illinois, which includes $260,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the locally preferred alternative for the Central Area Circulator Project. Such grant agreement shall provide that the Federal share of the cost of such project shall be paid by the Secretary from amounts provided under such section 3(k)(1)(B) as follows:

(1) Not less than $21,000,000 for fiscal year 1992.
(2) Not less than $55,000,000 for fiscal year 1993.
(3) Not less than $70,000,000 for fiscal year 1994.

(4) Not less than $62,000,000 for fiscal year 1995.

(5) Not less than a total of $52,000,000 for fiscal years 1996 and 1997.

Utah.

(f) SALT LAKE CITY LIGHT RAIL PROJECT.—No later than August 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Utah Transit Authority, which includes $131,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the initial segment of the locally preferred alternative for the Salt Lake City Light Rail Project, including feeder bus and other system related costs.

California.

(g) LOS ANGELES-SAN DIEGO (LOSSAN) RAIL CORRIDOR IMPROVEMENT PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Los Angeles-San Diego Rail Corridor Agency which includes not less than $10,000,000 for fiscal year 1992 and not less than $5,000,000 in each of fiscal years 1993 and 1994 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to provide for capital improvements to the rail corridor between Los Angeles and San Diego, California.

California.

(h) SAN JOSE-GILROY-HOLLISTER COMMUTER RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the responsible operating entity for the San Francisco Peninsula Commute Service which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $13,000,000 for capital improvements and trackage rights related to the extension of commuter rail service from San Jose, through Gilroy, to Hollister, California. The Secretary shall allocate to the Santa Clara County Transit District in fiscal year 1992, from funds made available under such section 3(k)(1)(B), $8,000,000 for the purpose of a one-time purchase of perpetual trackage rights between the existing terminus in San Jose and Gilroy, California, to run passenger rail service.

(i) DALLAS LIGHT RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with Dallas Area Rapid Transit which includes $160,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the locally preferred alternative for the initial 6.4 miles and 10 stations of the South Oak Cliff light rail line. Non-Federal funds used to acquire rights-of-way and to plan, design, and construct any of the elements of such light rail line on or after August 13, 1983, may be used to meet the non-Federal share funding requirement for financing construction of any of such elements.

Massachusetts.

(j) SOUTH BOSTON PIERS TRANSITWAY/LIGHT RAIL PROJECT.—No later than June 1, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Massachusetts Bay Transportation Authority which includes $278,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the South Station to World Trade Center segment of the locally preferred alternative for the South Boston Piers Transitway/Light Rail Project. Not later than February 28, 1992, the Secretary shall allocate from such $278,000,000 such sums as may be necessary to carry out preliminary engineering and design for the entirety of such preferred alternative. Section 330 of the Department of Transportation and Related Agencies Appropriations Act, 1992, is amended by striking "—", by striking "(a)", by

striking "; and" at the end of paragraph (a) and all that follows through the period at the end of such section and inserting a period, and by running in the remaining matter of paragraph (a) following "Administration".

(k) KANSAS CITY LIGHT RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Kansas City Area Transportation Authority which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $1,500,000 in fiscal year 1992, and $4,400,000 in fiscal year 1993 to provide for the completion of alternatives analysis and preliminary engineering for the Kansas City Light Rail Project.

(l) ORLANDO STREETCAR (OSCAR) DOWNTOWN TROLLEY PROJECT.— Florida.
No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the City of Orlando, Florida, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $5,000,000 to provide for the completion of alternatives analysis and preliminary engineering for the Orlando Streetcar (OSCAR) Downtown Trolley Project.

(m) DETROIT LIGHT RAIL PROJECT.—No later than April 30, 1992, Michigan.
the Secretary shall negotiate and enter into a multiyear grant agreement with the city of Detroit, Michigan, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, not less than $10,000,000 for fiscal year 1992, and not less than $10,000,000 for fiscal year 1993, to provide for the completion of alternatives analysis and preliminary engineering for the Detroit Light Rail Project.

(n) BUS AND BUS RELATED EQUIPMENT PURCHASES IN ALTOONA, PENNSYLVANIA.—No later than April 30, 1992, the Secretary shall enter into a grant agreement with Altoona Metro Transit for $2,000,000 for fiscal year 1992 from funds made available under section 3(k)(1)(C) of the Federal Transit Act to provide for the purchase of 10 buses, a fuel storage tank, a bus washer and 2 service vehicles.

(o) LONG BEACH METRO LINK FIXED RAIL PROJECT.—No later than California.
April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Los Angeles County Transportation Commission which includes $4,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to provide for the completion of alternatives analysis and preliminary engineering for the Metro Link Project in Long Beach, California.

(p) LAKEWOOD-FREEHOLD-MATAWAN OR JAMESBURG RAIL New Jersey.
PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the New Jersey Transit Corporation, which includes, from funds made available to the Northeastern New Jersey urbanized area under section 3(k)(1)(B) of the Federal Transit Act, $1,800,000 in fiscal year 1992 and $3,000,000 in each of fiscal years 1993 and 1994 to provide for the completion of alternatives analysis, preliminary engineering, and environmental impact statement for the Lakewood-Freehold-Matawan or Jamesburg Rail Project.

(q) SAN FRANCISCO, CALIFORNIA.—No later than April 30, 1992, the Secretary shall enter into a grant agreement for $2,500,000 from funds made available under section 3(k)(1)(C) for fiscal year 1992 to construct a parking facility as part of a multimodal transportation facility in the vicinity of California Pacific Medical Center, San Francisco, California.

North Carolina.

(r) CHARLOTTE LIGHT RAIL STUDY.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the City of Charlotte, North Carolina, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $125,000 in fiscal year 1992 and $375,000 in fiscal year 1993 to provide for the completion of systems planning and alternatives analysis for a priority light rail corridor in the Charlotte metropolitan area.

Georgia.

(s) BUCKHEAD PEOPLE MOVER CONCEPTUAL ENGINEERING STUDY.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Atlanta Regional Commission which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $200,000 in fiscal year 1992, to provide for the completion of a conceptual engineering study for a people mover system in Atlanta, Georgia.

(t) CLEVELAND DUAL HUB RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Greater Cleveland Regional Transit Authority which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $2,000,000 in fiscal year 1992, $2,000,000 in fiscal year 1993, and $1,000,000 in fiscal year 1994, to provide for the completion of alternatives analysis on the Cleveland Dual Hub Rail Project.

Tennessee.

(u) SAN DIEGO MID COAST LIGHT RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the San Diego Metropolitan Transit Development Board which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $2,000,000 in fiscal year 1992, $5,000,000 in fiscal year 1993, and $20,000,000 in fiscal year 1994, to provide for the completion of alternatives analysis and the final environmental impact statement, and to purchase right-of-way, for the San Diego Mid Coast Light Rail Project.

(v) CHATTANOOGA DOWNTOWN TROLLEY PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Chattanooga Area Regional Transportation Authority which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $1,000,000 in fiscal year 1992 and $1,000,000 in fiscal year 1993 to provide for the completion of alternatives analysis on a proposed trolley circulator in downtown Chattanooga, Tennessee.

(w) NORTHEAST OHIO COMMUTER RAIL FEASIBILITY STUDY.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Northeast Ohio Areawide Coordinating Agency which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $800,000 in fiscal year 1992 and $800,000 in fiscal year 1993 to study the feasibility of providing commuter rail service connecting urban and suburban areas in northeast Ohio.

Texas.

(x) RAILTRAN COMMUTER RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Cities of Dallas and Fort Worth, Texas, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $2,480,000, in fiscal year 1992, and $3,200,000 in fiscal year 1993 to provide for preliminary engineering and construction of improvements to the Dallas/Fort Worth RAILTRAN System.

(y) BUS AND BUS RELATED EQUIPMENT PURCHASES IN JOHNSTOWN, PENNSYLVANIA.—No later than April 30, 1992, the Secretary shall

enter into a grant agreement with the Cambria County Transit Authority for $1,600,000 for fiscal year 1992 from funds made available under section 3(k)(1)(C) of the Federal Transit Act to provide for the purchase of 6 midsize buses; spare engines, transmissions, wheels, tires; wheelchair lifts for urban buses; 20 2-way radios; 29 electronic fareboxes and related equipment; computer hardware and software; and shop tools, equipment and parts for the Cambria County Transit System; and a new 400 HP electric motor and related components; cable replacement; hillside erosion control; park-and-ride facilities; and a handicapped pedestrian crosswalk for the Johnstown Inclined Plane.

(z) BUS PURCHASE FOR EUREKA SPRINGS, ARKANSAS.—No later than April 30, 1992, the Secretary shall enter into a grant agreement with Eureka Springs Transit for $63,600 for fiscal year 1992 from funds made available under section 3(k)(1)(C) of the Federal Transit Act to provide for the purchase of an electrically powered bus which is accessible to and usable by individuals with disabilities.

Arizona.

(aa) TUCSON DIAL-A-RIDE PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with the City of Tucson, Arizona, which includes, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $8,000,000 in fiscal year 1992 to make capital improvements related to the Tucson Dial-a-Ride Project.

(bb) LONG BEACH BUS FACILITY PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with the Long Beach Transportation Company to include, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $13,875,000 in fiscal year 1992, to provide for the construction of a bus maintenance facility in the service area of such company.

Pennsylvania.

(cc) PARK-AND-RIDE LOT.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with the Southeastern Pennsylvania Transportation Authority which includes, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $4,000,000 in fiscal year 1992 to construct a park-and-ride lot in suburban Philadelphia, Pennsylvania.

Tennessee.

(dd) NASHVILLE INTERMODAL TERMINAL.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with the City of Nashville, Tennessee, which includes, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $3,700,000 in fiscal year 1992 to provide for the construction of an intermodal passenger terminal in Nashville, Tennessee.

Ohio.

(ee) MAIN STREET TRANSIT MALL.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with the City of Akron, Ohio, which includes, from funds made available to that State under section 3(k)(1)(C) of the Federal Transit Act, $1,450,000 in fiscal year 1992 to provide for preliminary engineering and construction of an extension to the Main Street Transit Mall.

(ff) PEOPLE MOBILIZER.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with PACE which includes, from funds made available to the suburban Chicago urbanized area under section 3(k)(1)(C), $2,300,000 in fiscal year 1992 to make capital purchases necessary for implementing the people mobilizer project in such area. The limitation on operating assistance which but for this section would apply to the people mobilizer project for fiscal year 1992 under section 9(k)(2)(A) of the Federal Transit Act shall be increased by $700,000.

Pennsylvania.

(gg) CENTRE AREA TRANSPORTATION AUTHORITY REIMBURSEMENT.—Notwithstanding any other provision of law, the Secretary shall reimburse the Centre Area Transportation Authority in State College, Pennsylvania, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $1,000,000 in fiscal year 1992 for costs incurred by the Centre Area Transportation Authority between August 1989 and October 1991 in connection with the construction of an administrative maintenance and bus storage facility.

(hh) KEY WEST, FLORIDA.—Not later than April 30, 1992, the Secretary shall negotiate and enter into a grant agreement with the city of Key West, Florida, which includes, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $239,666 in fiscal year 1992 for the cost of purchasing 3 buses.

(ii) BOSTON, MASSACHUSETTS.—The Secretary shall conduct at a cost of $250,000 in fiscal year 1992 from funds made available under section 3(k)(1)(B) of the Federal Transit Act a feasibility study of a proposed rail link between North Station and South Station in Boston, Massachusetts.

(jj) BUFFALO, NEW YORK.—No later than April 30, 1992, the Secretary shall enter into a grant agreement with the Niagara Frontier Transportation Authority for $2,000,000 for fiscal year 1992 from funds made available under section 3(k)(1)(C) of the Federal Transit Act to provide for the construction of metro bus transit centers in the service area of such transportation authority.

(kk) STATE OF MICHIGAN.—No later than June 30, 1992, the Secretary shall enter into a multiyear grant agreement with the State of Michigan for $10,500,000 for fiscal year 1992, and not less than $10,000,000 for each of fiscal years 1993 through 1997 from funds made available under section 3(k)(1)(C) of the Federal Transit Act for the purchase of buses and bus-related equipment to be distributed among local transit operators. Of the grant amount for fiscal year 1992, $500,000 shall be made available for a study of the feasibility of consolidation of transit services.

(ll) ANN ARBOR, MICHIGAN.—No later than April 30, 1992, the Secretary shall enter into a grant agreement with the Ann Arbor Transportation Authority for $1,500,000 for fiscal year 1992 from funds made available under section 3(k)(1)(C) of the Federal Transit Act for the purchase of equipment and software for advanced fare collection technology.

(mm) BAY AREA RAPID TRANSIT DISTRICT PARKING.—Not later than April 30, 1992, the Secretary shall negotiate and enter into a multiyear grant agreement with the San Francisco Bay Area Rapid Transit District which includes, from funds made available under section 3(k)(1)(C) of the Federal Transit Act, $12,600,000 for construction of a parking area for the planned East Dublin/Pleasanton BART station.

Maryland.

(nn) BALTIMORE-WASHINGTON TRANSPORTATION IMPROVEMENTS PROGRAM.—The Secretary shall carry out the Baltimore-Washington Transportation Improvements Program as follows:

(1) BALTIMORE-CENTRAL LIGHT RAIL EXTENSION.—By entering into a full funding grant agreement with the Mass Transit Administration of the Maryland Department of Transportation to carry out construction of locally preferred alternatives for the Hunt Valley, Baltimore-Washington International Airport and Penn Station extensions to the light rail line in Baltimore, Maryland. The grant agreement under this paragraph shall

provide that the Federal share shall be paid from amounts provided under section 3(k)(1)(B) of the Federal Transit Act as follows:

(A) Not less than $30,000,000 for fiscal year 1993.

(B) Not less than $30,000,000 for fiscal year 1994.

(2) MARC EXTENSIONS.—By entering into a full funding grant agreement with the Mass Transit Administration of the Maryland Department of Transportation for service extensions and other improvements, including extensions of the MARC commuter rail system to Frederick and Waldorf, planning and engineering, purchase of rolling stock and station improvements and expansions. The grant agreement under this paragraph shall be paid from amounts provided under section 3(k)(1)(B) of the Federal Transit Act as follows:

(A) Not less than $60,000,000 for fiscal year 1993.

(B) Not less than $50,000,000 for fiscal year 1994.

(C) Not less than $50,000,000 for fiscal year 1995.

(3) LARGO EXTENSION.—By entering into a full funding grant agreement with the State of Maryland or its designee to provide alternative analysis, the preparation of an environmental impact statement and preliminary engineering for a proposed rail transit project to be located in the corridor between the Washington Metropolitan Area Transit Authority Addison Road rail station and Largo, Maryland. The grant agreement under this paragraph shall provide that the Federal share shall be paid from amounts provided under section 3(k)(1)(B) of the Federal Transit Act in an amount not less than $5,000,000 for fiscal year 1993.

(oo) MILWAUKEE EAST-WEST CORRIDOR PROJECT.—The Secretary shall negotiate and sign a multiyear grant agreement with the State of Wisconsin which includes $200,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the initial segment of the locally preferred alternative as identified in the alternatives analysis of the Milwaukee East-West Corridor Project. Wisconsin.

(pp) BOSTON TO PORTLAND TRANSPORTATION CORRIDOR.—If the State of Maine or an agency thereof decides to initiate commuter rail service in the Boston to Portland transportation corridor, $30,000,000 under section 3(k)(1)(B) is authorized to be appropriated for capital improvements to allow such service.

(qq) NORTHEAST PHILADELPHIA COMMUTER RAIL STUDY.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Southeastern Pennsylvania Transportation Authority, which includes $400,000 from funds made available to the Philadelphia urbanized area under section 3(k)(1)(B) of the Federal Transit Act to provide for a study of the feasibility of instituting commuter rail service as an alternative to automobile travel to Center City Philadelphia on I-95. Pennsylvania.

(rr) ATLANTA COMMUTER RAIL STUDY.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Atlanta Regional Commission which includes, from funds made available to the Atlanta urbanized area under section 3(k)(1)(B) of the Federal Transit Act, $100,000 to study the feasibility of instituting commuter rail service in the Greensboro corridor.

(ss) PITTSBURGH LIGHT RAIL REHABILITATION PROJECT.—No later than 90 days after the date of the enactment of this Act, the Pennsylvania.

Secretary shall negotiate and sign a multiyear grant agreement with the Port Authority of Allegheny County which includes $5,000,000 from funds made available to the Pittsburgh urbanized area under section 3(k)(1)(B) of the Federal Transit Act to complete preliminary engineering for Stage II LRT rehabilitation in Allegheny County, Pennsylvania.

Georgia.

(tt) ATLANTA NORTH LINE EXTENSION.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Metropolitan Atlanta Rapid Transit Authority which includes $329,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the locally preferred alternative for a 3.1 mile extension of the North Line of the heavy rail rapid transit system in Atlanta, Georgia.

(uu) HOUSTON PRIORITY CORRIDOR FIXED GUIDEWAY PROJECT.—Provided that a locally preferred alternative for the Priority Corridor fixed guideway project has been selected by March 1, 1992, no later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Metropolitan Transit Authority of Harris County which includes $500,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of such locally preferred alternative.

(vv) JACKSONVILLE AUTOMATED SKYWAY EXPRESS EXTENSION.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Jacksonville Transportation Authority which includes $71.2 million from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the locally preferred alternative for a 1.8 mile extension to the Automated Skyway Express starter line.

(ww) HONOLULU RAPID TRANSIT PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the City and County of Honolulu which includes $618,000,000 from funds made available under section 3(k)(1)(B) of the Federal Transit Act to carry out the construction of the locally preferred alternative of a 17.3 mile fixed guideway system.

California.

(xx) SACRAMENTO LIGHT RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Sacramento Regional Transit District which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $26,000,000 to provide for the completion of alternatives analysis, preliminary engineering, and final design on proposed extensions to the light rail system in Sacramento, California.

Pennsylvania.

(yy) PHILADELPHIA CROSS-COUNTY METRO RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Southeastern Pennsylvania Transportation Authority which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $2,400,000 to provide for the completion of alternatives analysis and preliminary engineering for the Philadelphia Cross-County Metro Rail Project.

Ohio.

(zz) CLEVELAND BLUE LINE LIGHT RAIL EXTENSION.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the Greater Cleveland Regional Transit Authority which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $1,200,000 to provide for the completion of alternatives analysis and preliminary engineering for an extension of the Blue Line to Highland Hills, Ohio.

(aaa) DULLES CORRIDOR RAIL PROJECT.—No later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the State of Virginia, or its assignee, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $6,000,000 to provide for the completion of alternatives analysis and preliminary engineering for a rail corridor from the West Falls Church Washington Metropolitan Area Transit Authority rail station to Dulles International Airport. Virginia.

(bbb) PUGET SOUND CORE RAPID TRANSIT PROJECT.—Not later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the municipality of metropolitan Seattle, Washington, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $300,000,000 for the Puget Sound Core Rapid Transit Project. Washington.

(ccc) SEATTLE-TACOMA COMMUTER RAIL.—Not later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the municipality of metropolitan Seattle, Washington, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $25,000,000 for the Seattle-Tacoma Commuter Rail Project. Washington.

(ddd) ALTOONA PEDESTRIAN CROSSOVER.—Not later than April 30, 1992, the Secretary shall negotiate and sign a multiyear grant agreement with the city of Altoona, Pennsylvania, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $3,200,000 for construction of the 14th Street Pedestrian Crossover in Altoona, Pennsylvania. Pennsylvania.

(eee) MULTI-MODAL TRANSIT PARKWAY.—Not later than April 30, 1992, the Secretary shall negotiate and enter into a multiyear grant agreement with the State of California which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $15,000,000 for construction of a multi-modal transit parkway in western Los Angeles, California. California.

(fff) CANAL STREET CORRIDOR LIGHT RAIL, NEW ORLEANS, LOUISIANA.—No later than April 30, 1992, the Secretary shall negotiate and sign a grant agreement with the city of New Orleans, Louisiana, which includes, from funds made available under section 3(k)(1)(B) of the Federal Transit Act, $4,800,000 to provide for the completion of alternatives analysis, preliminary engineering, and an environmental impact statement for the Canal Street Corridor Light Rail System in New Orleans, Louisiana.

SEC. 3036. UNOBLIGATED M ACCOUNT BALANCES.

Notwithstanding any other provision of law, any obligated M account balances remaining available for expenditure as of August 1, 1991, under "Urban Discretionary Grants" and "Interstate Transfer Grants-Transit" of the Federal Transit Administration program shall be exempt from the application of the provisions of section 1405 (b)(4) and (b)(6) of Public Law 101-510 and section 1552 of title 31, United States Code, and shall be available until expended.

SEC. 3037. TECHNICAL ACCOUNTING PROVISIONS.

Notwithstanding any other provision of law, any funds appropriated before October 1, 1983, under section 6, 10, 11, or 18 of the Act, or section 103(e)(4) of title 23, United States Code, in effect on September 30, 1991, that remain available for expenditure after

October 1, 1991, may be transferred to and administered under the most recent appropriation heading for any such section.

SEC. 3038. REDUCTION IN AUTHORIZATIONS FOR BUDGET COMPLIANCE.

If the total amount authorized by this Act (including amendments made by this Act) out of the Mass Transit Account of the Highway Trust Fund exceeds $1,900,000,000 for fiscal year 1992, or exceeds $13,800,000,000 for fiscal years 1992 through 1996, then each amount so authorized shall be reduced proportionately so that the total equals $1,900,000,000 for fiscal year 1992, or equals $13,800,000,000 for fiscal years 1992 through 1996, as the case may be.

New Jersey.

SEC. 3039. PETROLEUM VIOLATION ESCROW ACCOUNT FUNDS.

Notwithstanding any other provision of law, the Federal Transit Administration shall allow petroleum violation escrow account funds spent by the New Jersey Transit Corporation on transit improvements to be applied as credit towards the non-Federal match for any transit project funded under the Federal Transit Act. The New Jersey Transit Corporation shall demonstrate that the use of such a credit does not result in the reduction in non-Federal funding for transit projects within the fiscal year in which the credit is applied.

49 USC app. 1602 note. Regulations.

SEC. 3040. CHARTER SERVICES DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—Notwithstanding any provision of law, the Secretary shall implement regulations, not later than 9 months after the date of the enactment of this Act, in not more than 4 States to permit transit operators to provide charter services for the purposes of meeting the transit needs of government, civic, charitable, and other community activities which otherwise would not be served in a cost effective and efficient manner.

(b) CONSULTATION.—In developing such regulations, the Secretary shall consult with a board that is equally represented by public transit operators and privately owned charter services.

(c) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing an evaluation of the effectiveness of the demonstration program regulations established under this section and make recommendations to improve current charter service regulations.

49 USC app. 1602 note.

SEC. 3041. GAO REPORT ON CHARTER SERVICE REGULATIONS.

The Comptroller General shall submit to the Congress, not later than 12 months after the date of the enactment of this Act, a report evaluating the impact of existing charter service regulations. The report shall—

(1) assess the extent to which the regulations promote or impede the ability of communities to meet the transportation needs of government, civic, and charitable organizations in a cost-effective and efficient manner;

(2) assess the extent to which the regulations promote or impede the ability of communities to carry out economic development activities in a cost-effective and efficient manner;

(3) analyze the extent to which public transit operators and private charter carriers have entered into charter service agreements pursuant to the regulations; and

(4) analyze the extent to which such agreements enable private carriers to profit from the provision of charter service by public transit operators using federally subsidized vehicles.

The report shall also include an assessment of the factors specified in the preceding sentence within the context of not less than 3 communities selected by the Comptroller General.

SEC. 3042. 1993 WORLD UNIVERSITY GAMES.

Notwithstanding any other provision of law, before apportionment under section 9 of the Federal Transit Act of funds provided under section 21(a)(1) of such Act for fiscal year 1993, $4,000,000 of such funds shall be made available to the State of New York or to any public body to which the State further delegates authority, as the designated recipient for the purposes of this section, to carry out projects by contracts with private or public service providers to meet the transportation needs associated with the staging of the 1993 World University Games in the State of New York. Such funds shall be available for any purpose eligible under section 9 of such Act without limitation. The matching requirement for operating assistance under section 9(k)(1) of such Act shall not apply to funds made available under this section.

SEC. 3043. OPERATING ASSISTANCE LIMITATION FOR STATEN ISLAND FERRY.

The limitation of operating assistance which, but for this section, would apply to the Staten Island Ferry for fiscal year 1993 under section 9(k)(2)(A) of the Federal Transit Act shall be increased by $2,700,000.

SEC. 3044. FORGIVENESS OF CERTAIN OUTSTANDING OBLIGATIONS. North Carolina.

Notwithstanding the fifth sentence of section 4(a) of the Federal Transit Act, the outstanding balance on grant agreement number NC-05-0021 made to the Fayetteville Transit Authority, North Carolina is forgiven.

SEC. 3045. FORGIVENESS OF LOAN REPAYMENT.

Notwithstanding any other provision of law (including any regulation), the outstanding balances on the following loan agreements do not have to be repaid:

(1) Loan agreement number PA-03-9002 made to the Southeastern Pennsylvania Transit Authority.

(2) Loan agreement number PA-03-9003 made to the Southeastern Pennsylvania Transit Authority.

SEC. 3046. MODIFIED BUS SERVICE TO ACCOMMODATE THE NEEDS OF STUDENTS. New York.

Nothing in the Federal Transit Act, including the regulations issued to carry out such Act, shall be construed to prohibit the use of buses acquired or operated with Federal assistance under such Act to provide tripper bus service in New York City, New York, to accommodate the needs of students, if such buses carry normal designations and clear markings that such buses are open to the general public. For the purposes of this section, the term "tripper bus service" shall have the meaning such term has on the date of the enactment of this Act in regulations issued pursuant to the Federal Transit Act and shall include the service provided by express buses operating along regular routes and as indicated in published route schedules.

49 USC app. 1604 note.

SEC. 3047. ELIGIBILITY DETERMINATIONS FOR DISABILITY.

(a) STUDY.—The Secretary shall conduct a study of procedures for determining disability for the purpose of obtaining off peak reduced fares under section 5(m) of the Federal Transit Act. The study should review different requirements, degree of uniformity, and degree of reciprocity between transit systems.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall report to Congress on the results of the study conducted under this section.

SEC. 3048. MILWAUKEE ALTERNATIVES ANALYSIS APPROVAL.

No later than January 15, 1992, the Secretary shall enter into an agreement with the Wisconsin Department of Transportation giving approval to undertake an alternatives analysis for the East-West Central Milwaukee Corridor. The alternatives analysis shall be funded entirely from non-Federal sources.

Motor Carrier Act of 1991. Intergovernmental relations. 49 USC app. 2301 note.

TITLE IV—MOTOR CARRIER ACT OF 1991

SEC. 4001. SHORT TITLE.

This title may be cited as the "Motor Carrier Act of 1991".

SEC. 4002. MOTOR CARRIER SAFETY GRANT PROGRAM AMENDMENTS.

(a) CONTENTS OF STATE PLANS.—Section 402(b)(1) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2302(b)(1)) is amended—

(1) by striking subparagraph (D) and inserting the following new subparagraph:

"(D) provides a right of entry and inspection to carry out the plan and provides that the State will grant maximum reciprocity for inspections conducted pursuant to the North American Inspection Standard, through the use of a nationally accepted system allowing ready identification of previously inspected commercial motor vehicles;";

(2) by striking "and" at the end of subparagraph (F);

(3) by striking the period of subparagraph (G) and inserting a semicolon; and

(4) by adding at the end the following new subparagraphs:

"(H) ensures that activities described in paragraphs (1), (2), and (3) of subsection (e) if funded with grants under this section will not diminish the effectiveness of development and implementation of commercial motor vehicle safety programs described in subsection (a);

"(I) ensures that fines imposed and collected by the State for violations of commercial motor vehicle safety regulations will be reasonable and appropriate and provides that, to the maximum extent practicable, the State will seek to implement into law and practice the recommended fine schedule published by the Commercial Vehicle Safety Alliance;

"(J) ensures that such State agency will coordinate the plan prepared under this section with the State highway safety plan under section 402 of title 23, United States Code;

"(K) ensures participation by the 48 contiguous States in SAFETYNET by January 1, 1994;

"(L) gives satisfactory assurances that the State will undertake efforts that will emphasize and improve enforcement of State and local traffic safety laws and regulations pertaining to commercial motor vehicle safety;

"(M) gives satisfactory assurances that the State will promote activities—

"(i) to remove impaired commercial motor vehicle drivers from our Nation's highways through adequate enforcement of regulations on the use of alcohol and controlled substances and by ensuring ready roadside access to alcohol detection and measuring equipment;

"(ii) to provide an appropriate level of training to its motor carrier safety assistance program officers and employees on the recognition of drivers impaired by alcohol or controlled substances;

"(iii) to promote enforcement of the requirements relating to the licensing of commercial motor vehicle drivers, especially including the checking of the status of commercial drivers' licenses; and

"(iv) to improve enforcement of hazardous materials transportation regulations by encouraging more inspections of shipper facilities affecting highway transportation and more comprehensive inspections of the loads of commercial motor vehicles transporting hazardous materials; and

"(N) give satisfactory assurance that the State will promote—

"(i) effective interdiction activities affecting the transportation of controlled substances by commercial motor vehicle drivers and training on appropriate strategies for carrying out such interdiction activities; and

"(ii) effective use of trained and qualified officers and employees of political subdivisions and local governments, under the supervision and direction of the State motor vehicle safety agency, in the enforcement of regulations affecting commercial motor vehicle safety and hazardous materials transportation safety.".

(b) MAINTENANCE OF EFFORT.—Section 402(d) of such Act is amended— 49 USC app. 2302.

(1) by inserting "and for enforcement of commercial motor vehicle size and weight limitations, for drug interdiction, and for enforcement of State traffic safety laws and regulations described in subsection (e)" after "programs";

(2) by striking "two" and inserting "3";

(3) by striking "this section" the second place it appears and inserting "the Intermodal Surface Transportation Efficiency Act of 1991"; and

(4) by adding at the end the following new sentence: "In estimating such average level, the Secretary may allow the State to exclude State expenditures for federally sponsored demonstration or pilot programs and shall require the State to exclude Federal funds and State matching funds used to receive Federal funding under this section.".

(c) USE OF GRANT FUNDS FOR ENFORCEMENT OF CERTAIN OTHER LAWS.—Section 402 of such Act is amended by adding at the end the following new subsection:

"(e) USE OF GRANT FUNDS FOR ENFORCEMENT OF CERTAIN OTHER LAWS.—A State may use funds received under a grant under this section—

"(1) for enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific geographical locations (such as steep grades or mountainous terrains) where the weight of a commercial motor vehicle can significantly affect the safe operation of such vehicle, or at seaports where intermodal shipping containers enter and exit the United States;

"(2) for detecting the unlawful presence of a controlled substance (as defined under section 102 of the Controlled Substances Act (21 U.S.C. 802)) in a commercial motor vehicle or on the person of any occupant (including the operator) of such a vehicle; and

"(3) for enforcement of State traffic laws and regulations designed to promote safe operation of commercial motor vehicles;

if such activities are carried out in conjunction with an appropriate type of inspection of the commercial motor vehicle for enforcement of Federal or State commercial motor vehicle safety regulations.".

(d) FEDERAL SHARE.—Section 403 of such Act (49 U.S.C. App. 2303) is amended by inserting after the first sentence the following new sentence: "In determining such costs incurred by the State, the Secretary shall include in-kind contributions by the State.".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 404 of such Act (49 U.S.C. App. 2304) is amended—

(1) in subsection (a)(2) by striking "and" before "$60,000,000" and inserting a comma; and

(2) by striking the period at the end of subsection (a)(2) and inserting ", $65,000,000 for fiscal year 1992, $76,000,000 for fiscal year 1993, $80,000,000 for fiscal year 1994, $83,000,000 for fiscal year 1995, $85,000,000 for fiscal year 1996, and $90,000,000 for fiscal year 1997.".

(f) AVAILABILITY, RELEASE, AND REALLOCATION OF FUNDS.—Section 404(c) of such Act is amended to read as follows:

"(c) AVAILABILITY, RELEASE, AND REALLOCATION OF FUNDS.—Funds made available by this section shall remain available for obligation by the Secretary until expended. Allocations to a State shall remain available for expenditure in that State for the fiscal year in which they are allocated and 1 succeeding fiscal year. Funds not expended by a State during those 2 fiscal years shall be released to the Secretary for reallocation. Funds made available under this part which, as of October 1, 1992, were not obligated shall be available for reallocation and obligation under this subsection.".

(g) ALLOCATIONS.—Section 404(f) of such Act is amended to read as follows:

"(f) ADMINISTRATIVE EXPENSES; ALLOCATION CRITERIA.—

"(1) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary may deduct, for administration of this section for that fiscal year, not to exceed 1.25 percent of the funds made available for that fiscal year by subsection (a)(2). At least 75 percent of the funds so deducted for administration shall be used for the training of non-Federal employees, and the development of related training materials, to carry out the purposes of section 402.

"(2) ALLOCATION CRITERIA.—On October 1 of each fiscal year, or as soon thereafter as is practicable, the Secretary, after making the deduction authorized by paragraph (1), shall allocate, among the States with plans approved under section 402, the available funds for that fiscal year, pursuant to criteria established by the Secretary; except that the Secretary, in allocating funds available for research, development, and demonstration under subsection (g)(5) and for public education under subsection (g)(6), may designate specific eligible States among which to allocate such funds.".

(h) FUNDING FOR SPECIFIED PROGRAMS.—Section 404 of such Act is further amended by adding at the end of such section the following new subsection:

"(g) FUNDING FOR SPECIFIED PROGRAMS.—

"(1) TRAINING OF HAZMAT INSPECTORS.—The Secretary shall obligate from funds made available by subsection (a)(2) for each fiscal year beginning after September 30, 1992, not less than $1,500,000 to make grants to States for training inspectors for enforcement of regulations which are issued by the Secretary and pertain to transportation by commercial motor vehicle of hazardous materials.

"(2) COMMERCIAL MOTOR VEHICLE INFORMATION SYSTEM REVIEW.—The Secretary may obligate from funds made available by subsection (a)(2) for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 not to exceed $2,000,000 to carry out section 407 of this title, relating to the commercial motor vehicle information system.

"(3) TRUCK AND BUS ACCIDENT DATA GRANT PROGRAM.—The Secretary may obligate from funds made available by subsection (a)(2) for each of fiscal years 1993, 1994, 1995, 1996, and 1997 not to exceed $2,000,000 to carry out section 408 of this title, relating to the truck and bus accident data grant program.

"(4) ENFORCEMENT.—

"(A) TRAFFIC ENFORCEMENT ACTIVITIES.—The Secretary shall obligate from funds made available by subsection (a)(2) for each of fiscal years 1993, 1994, and 1995 not less than $4,250,000 and for each of fiscal years 1996 and 1997 not less than $5,000,000 for traffic enforcement activities with respect to commercial motor vehicle drivers which are carried out in conjunction with an appropriate inspection of a commercial motor vehicle for compliance with Federal or State commercial motor vehicle safety regulations.

"(B) LICENSING REQUIREMENTS.—The Secretary shall obligate from the funds made available by subsection (a)(2) not less than $1,000,000 for each of fiscal years 1993, 1994, and 1995 to increase enforcement of the licensing requirements of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. 2701 App. et seq.) by motor carrier safety assistance program officers and employees, including the cost of purchasing equipment for and conducting inspections to check the current status of licenses issued pursuant to such Act.

"(5) RESEARCH AND DEVELOPMENT.—The Secretary shall obligate from funds made available by subsection (a)(2) not less than $500,000 for any fiscal year for research, development, and demonstration of technologies, methodologies, analyses, or information systems designed to promote the purposes of sec-

tion 402 and which are beneficial to all jurisdictions. Such funds shall be announced publicly and awarded competitively, whenever practicable, to any of the eligible States for up to 100 percent of the State costs, or to other persons as determined by the Secretary.

"(6) PUBLIC EDUCATION.—The Secretary shall obligate from funds made available by subsection (a)(2) for any fiscal year not less than $350,000 to educate the motoring public on how to share the road safely with commercial motor vehicles. In carrying out such education activities, the States shall consult with appropriate industry representatives.".

(i) PAYMENTS TO STATES.—Section 404 of such Act is further amended by adding at the end the following new subsection:

"(h) PAYMENTS TO STATES.—The Secretary shall make payments to a State of costs incurred by it under this section and section 402, as reflected by vouchers submitted by the State. Payments shall not exceed the Federal share of costs incurred as of the date of the vouchers.".

(j) MOTOR CARRIER SAFETY FUNCTIONS.—There is authorized to be appropriated for the motor carrier safety functions of the Federal Highway Administration $49,317,000 for fiscal year 1992.

Regulations. 49 USC app. 2304 note.

(k) NEW FORMULA FOR ALLOCATION OF FUNDS.—Not later than 6 months after the date of the enactment of this Act, the Secretary, by regulation, shall develop an improved formula and processes for the allocation among eligible States of the funds made available under the motor carrier safety assistance program. In conducting such a revision, the Secretary shall take into account ways to provide incentives to States that demonstrate innovative, successful, cost-efficient, or cost-effective programs to promote commercial motor vehicle safety and hazardous materials transportation safety. In particular, the Secretary shall place special emphasis on incentives to States that conduct traffic safety enforcement activities that are coupled with motor carrier safety inspections. In improving the formula, the Secretary shall also take into account ways to provide incentives to States that increase compatibility of State commercial motor vehicle safety and hazardous materials transportation regulations with the Federal safety regulations and promote other factors intended to promote effectiveness and efficiency that the Secretary determines appropriate.

Regulations. 49 USC app. 2302 note.

(l) INTRASTATE COMPATIBILITY.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall issue final regulations specifying tolerance guidelines and standards for ensuring compatibility of intrastate commercial motor vehicle safety law and regulations with the Federal motor carrier safety regulations under the motor carrier safety assistance program. Such guidelines and standards shall, to the extent practicable, allow for maximum flexibility while ensuring the degree of uniformity that will not diminish transportation safety. In the review of State plans and the allocation or granting of funds under section 153 of title 23, United States Code, as added by this Act, the Secretary shall ensure that such guidelines and standards are applied uniformly.

SEC. 4003. COMMERCIAL MOTOR VEHICLE INFORMATION SYSTEM.

Part A of title IV of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2301-2305) is amended by adding at the end the following new section:

"SEC. 407. COMMERCIAL VEHICLE INFORMATION SYSTEM PROGRAM. 49 USC app. 2306.

"(a) INFORMATION SYSTEM.—

"(1) REGISTRATION SYSTEMS REVIEW.—Not later than 1 year after the effective date of this section, the Secretary, in cooperation with the States, shall conduct a review of State motor vehicle registration systems pertaining to license tags for commercial motor vehicles in order to determine whether or not such systems could be utilized in carrying out this section.

"(2) ESTABLISHMENT.—The Secretary, in cooperation with the States, may establish, as part of the motor carrier safety information network system of the Department of Transportation and similar State systems, an information system which will serve as a clearinghouse and depository of information pertaining to State registration and licensing of commercial motor vehicles and the safety fitness of the registrants of such vehicles.

"(3) OPERATION.—Operation of the information system established under paragraph (2) shall be paid for by a system of user fees. The Secretary may authorize the operation of the information system by contract, through an agreement with a State or States, or by designating, after consultation with the States, a third party which represents the interests of the States.

"(4) DATA COLLECTION AND REPORTING STANDARDS.—The Secretary shall establish standards to ensure uniform data collection and reporting by all States necessary to carry out this section and to ensure the availability and reliability of the information to the States and the Secretary from the information system established under paragraph (2).

"(5) TYPE OF INFORMATION.—As part of the information system established under paragraph (2), the Secretary shall include information on the safety fitness of the registrant of the commercial motor vehicle and such other information as the Secretary considers appropriate, including data on vehicle inspections and out-of-service orders.

"(b) DEMONSTRATION PROJECT.—The Secretary shall make grants to States to carry out a project to demonstrate methods of establishing an information system which will link the motor carrier safety information network system of the Department of Transportation and similar State systems with the motor vehicle registration and licensing systems of the States. The purposes of the project shall be— Grants.

"(1) to allow a State when issuing license plates for a commercial motor vehicle to determine through use of the information system the safety fitness of the person seeking to register the vehicle; and

"(2) to determine the types of sanctions which may be imposed on the registrant, or the types of conditions or limitations which may be imposed on the operations of the registrant, to ensure the safety fitness of the registrant.

"(c) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out this section.

"(d) REPORT.—Not later than January 1, 1995, the Secretary shall prepare and submit to Congress a report assessing the cost and benefits and feasibility of the information system established under this section and, if the Secretary determines that such system would

be beneficial on a nationwide basis, including recommendations on legislation for the nationwide implementation of such system.

"(e) FUNDING.—Funds necessary to carry out this section may be made available by the Secretary as provided in section 404(g)(2) of this title.

"(f) COMMERCIAL MOTOR VEHICLE DEFINED.—For purposes of this section, the term 'commercial motor vehicle' means any self-propelled or towed vehicle used on highways in intrastate or interstate commerce to transport passengers or property—

"(1) if such vehicle has a gross vehicle weight rating of 10,001 or more pounds;

"(2) if such vehicle is designed to transport more than 15 passengers, including the driver; or

"(3) if such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801 et seq.) and are transported in a quantity requiring placarding under regulations issued by the Secretary under such Act.".

SEC. 4004. TRUCK AND BUS ACCIDENT DATA GRANT PROGRAM.

Part A of title IV of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2301-2305) is further amended by adding at the end the following new section:

49 USC app. 2307.

"SEC. 408. TRUCK AND BUS ACCIDENT DATA GRANT PROGRAM.

"(a) GENERAL AUTHORITY.—The Secretary shall make grants to States which agree to adopt or have adopted the recommendations of the National Governors' Association with respect to police accident reports for truck and bus accidents.

"(b) GRANT PURPOSES.—Grants may only be made under this section for assisting States in the implementation of the recommendations referred to in subsection (a), including—

"(1) assisting States in designing appropriate forms;

"(2) drafting instruction manuals;

"(3) training appropriate State and local officers, including training on accident investigation techniques to determine the probable cause of accidents;

"(4) analyzing and evaluating safety data so as to develop, if necessary, recommended changes to existing safety programs that more effectively would address the causes of truck and bus accidents; and

"(5) such other activities as the Secretary determines are appropriate to carry out the objectives of this section.

"(c) COORDINATION.—The Secretary shall coordinate grants made under this section with the highway safety programs being carried out under section 402 of title 23, United States Code, and may require that the data from the reports described in subsection (a) be included in the reports made to the Secretary under the uniform data collection and reporting program carried out under such section.

"(d) FUNDING.—Funds necessary to carry out this section may be made available by the Secretary as provided in section 404(g)(3) of this title.".

SEC. 4005. SINGLE STATE REGISTRATION SYSTEM.

Section 11506 of title 49, United States Code, is amended to read as follows:

"§ 11506. Registration of motor carriers by a State

"(a) DEFINITIONS.—In this section, the terms 'standards' and 'amendments to standards' mean the specification of forms and procedures required by regulations of the Interstate Commerce Commission to prove the lawfulness of transportation by motor carrier referred to in section 10521(a) (1) and (2) of this title.

"(b) GENERAL RULE.—The requirement of a State that a motor carrier, providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title and providing transportation in that State, register the certificate or permit issued to the carrier under section 10922 or 10923 of this title is not an unreasonable burden on transportation referred to in section 10521(a) (1) and (2) of this title when the registration is completed under standards of the Commission under subsection (c) of this section. When a State registration requirement imposes obligations in excess of the standards, the part in excess is an unreasonable burden.

"(c) SINGLE STATE REGISTRATION SYSTEM.—

"(1) IN GENERAL.—Not later than 18 months after the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991, the Commission shall prescribe amendments to the standards existing as of such date of enactment. Such amendments shall implement a system under which—

"(A) a motor carrier is required to register annually with only one State;

"(B) the State of registration shall fully comply with standards prescribed under this section; and

"(C) such single State registration shall be deemed to satisfy the registration requirements of all other States.

"(2) SPECIFIC REQUIREMENTS.—

"(A) EVIDENCE OF CERTIFICATE; PROOF OF INSURANCE; PAYMENT OF FEES.—Under the amended standards implementing the single State registration system described in paragraph (1) of this subsection, only a State acting in its capacity as registration State under such single State system may require a motor carrier holding a certificate or permit issued under this subtitle—

"(i) to file and maintain evidence of such certificate or permit;

"(ii) to file satisfactory proof of required insurance or qualification as a self-insurer;

"(iii) to pay directly to such State fee amounts in accordance with the fee system established under subparagraph (B)(iv) of this paragraph, subject to allocation of fee revenues among all States in which the carrier operates and which participate in the single State registration system; and

"(iv) to file the name of a local agent for service of process.

"(B) RECEIPTS; FEE SYSTEM.—Such amended standards—

"(i) shall require that the registration State issue a receipt, in a form prescribed under the amended standards, reflecting that the carrier has filed proof of insurance as provided under subparagraph (A)(ii) of this paragraph and has paid fee amounts in accordance

with the fee system established under clause (iv) of this subparagraph;

"(ii) shall require that copies of the receipt issued under clause (i) of this subparagraph be kept in each of the carrier's commercial motor vehicles;

"(iii) shall not require decals, stamps, cab cards, or any other means of registering or identifying specific vehicles operated by the carrier;

"(iv) shall establish a fee system for the filing of proof of insurance as provided under subparagraph (A)(ii) of this paragraph that (I) will be based on the number of commercial motor vehicles the carrier operates in a State and on the number of States in which the carrier operates, (II) will minimize the costs of complying with the registration system, and (III) will result in a fee for each participating State that is equal to the fee, not to exceed $10 per vehicle, that such State collected or charged as of November 15, 1991; and

"(v) shall not authorize the charging or collection of any fee for filing and maintaining a certificate or permit under subparagraph (A)(i) of this paragraph.

"(C) PROHIBITED FEES.—The charging or collection of any fee under this section that is not in accordance with the fee system established under subparagraph (B)(iv) of this paragraph shall be deemed to be a burden on interstate commerce.

"(D) LIMITATION ON PARTICIPATION BY STATES.—Only a State which, as of January 1, 1991, charged or collected a fee for a vehicle identification stamp or number under part 1023 of title 49, Code of Federal Regulations, shall be eligible to participate as a registration State under this subsection or to receive any fee revenue under this subsection.

"(3) EFFECTIVE DATE OF AMENDMENTS.—Amendments prescribed under this subsection shall take effect by January 1, 1994.

"(d) INTERPRETATION AUTHORITY OF COMMISSION.—This section does not affect the authority of the Commission to interpret its regulations and certificates and permits issued under section 10922 or 10923 of this title.".

SEC. 4006. VEHICLE LENGTH RESTRICTION.

(a) CARGO CARRYING UNIT LIMITATION.—Section 411 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311) is amended by adding at the end the following new subsection:

"(j) CARGO CARRYING UNIT LIMITATION.—

"(1) IN GENERAL.—No State shall allow by statute, regulation, permit, or any other means the operation on any segment of the National System of Interstate and Defense Highways and those classes of qualifying Federal-aid primary system highways as designated by the Secretary pursuant to subsection (e) of this section, of any commercial motor vehicle combination (except for those vehicles and loads which cannot be easily dismantled or divided and which have been issued special permits in accordance with applicable State laws) with 2 or more cargo carrying units (not including the truck tractor) whose cargo carrying units exceed—

"(A) the maximum combination trailer, semitrailer, or other type of length limitation authorized by statute or regulation of that State on or before June 1, 1991; or

"(B) the length of the cargo carrying units of those commercial motor vehicle combinations, by specific configuration, in actual, lawful operation on a regular or periodic basis (including continuing seasonal operation) in that State on or before June 1, 1991.

"(2) WYOMING, OHIO, AND ALASKA.—

"(A) WYOMING.—In addition to those vehicles allowed under paragraphs (1)(A) and (1)(B), the State of Wyoming may allow the operation of additional vehicle configurations not in actual operation on June 1, 1991, but authorized by State law not later than November 3, 1992, if such vehicle configurations comply with the single axle, tandem axle, and bridge formula limits set forth in section 127(a) of title 23, United States Code, and do not exceed 117,000 pounds gross vehicle weight.

"(B) OHIO.—In addition to vehicles which the State of Ohio may continue to allow to be operated under paragraphs (1)(A) and (1)(B), such State may allow commercial motor vehicle combinations with 3 cargo carrying units of 28½ feet each (not including the truck tractor) not in actual operation on June 1, 1991, to be operated within its boundaries on the 1-mile segment of Ohio State Route 7 which begins at and is south of exit 16 of the Ohio Turnpike.

"(C) ALASKA.—In addition to vehicles which the State of Alaska may continue to allow to be operated under paragraphs (1)(A) and (1)(B), such State may allow operation of commercial motor vehicle combinations which were not in actual operation on June 1, 1991, but which were in actual operation prior to July 6, 1991.

"(3) MEASUREMENT OF LENGTH.—For purposes of this subsection, the length of the cargo carrying units of a commercial motor vehicle combination is the length measured from the front of the first cargo carrying unit to the rear of the last cargo carrying unit.

"(4) LIMITATIONS.—Commercial motor vehicle combinations whose operations in a State are not prohibited under paragraphs (1) and (2) of this subsection may continue to operate in such State on the highways described in paragraph (1) only if in compliance with, at the minimum, all State statutes, regulations, limitations, and conditions, including but not limited to routing-specific and configuration-specific designations and all other restrictions in force in such State on June 1, 1991; except that subject to such regulations as may be issued by the Secretary, pursuant to paragraph (8) of this subsection, the State may make minor adjustments of a temporary and emergency nature to route designations and vehicle operating restrictions in effect on June 1, 1991, for specific safety purposes and road construction. Nothing in this subsection shall prevent any State from further restricting in any manner or prohibiting the operation of any commercial motor vehicle combination subject to this subsection, except that such restrictions or prohibitions shall be consistent with the requirements of this section and of section 412 and section 416 (a) and (b) of this Act. Any State further restricting or prohibiting the operations of commercial

Federal Register, publication.

motor vehicle combinations or making such minor adjustments of a temporary and emergency nature as may be allowed pursuant to regulations issued by the Secretary pursuant to paragraph (8) of this subsection shall advise the Secretary within 30 days after such action and the Secretary shall publish a notice of such action in the Federal Register.

"(5) LIST OF STATE LENGTH LIMITATIONS.—

"(A) SUBMISSION TO SECRETARY.—Within 60 days after the date of the enactment of this subsection, each State shall submit to the Secretary for publication a complete list of State length limitations applicable to commercial motor vehicle combinations operating in each State on the highways described in paragraph (1). The list shall indicate the applicable State statutes and regulations associated with such length limitations. If a State does not submit information as required, the Secretary shall complete and file such information for such State.

Federal Register, publication.

"(B) INTERIM LIST.—Not later than 90 days after the date of the enactment of this subsection, the Secretary shall publish an interim list in the Federal Register, consisting of all information submitted pursuant to subparagraph (A). The Secretary shall review for accuracy all information submitted by the States pursuant to subparagraph (A) and shall solicit and consider public comment on the accuracy of all such information.

"(C) LIMITATION.—No statute or regulation shall be included on the list submitted by a State or published by the Secretary merely on the grounds that it authorized, or could have authorized, by permit or otherwise, the operation of commercial motor vehicle combinations not in actual operation on a regular or periodic basis on or before June 1, 1991.

Federal Register, publication.

"(D) FINAL LIST.—Except as modified pursuant to subparagraph (B) or (E) of this subsection, the list shall be published as final in the Federal Register not later than 180 days after the date of the enactment of this subsection. In publishing the final list, the Secretary shall make any revisions necessary to correct inaccuracies identified under subparagraph (B). After publication of the final list, commercial motor vehicle combinations prohibited under paragraph (1) may not operate on the National System of Interstate and Defense Highways and other Federal-aid primary system highways as designated by the Secretary except as published on the list. The list may be combined by the Secretary with the list required under section 127(d) of title 23, United States Code.

"(E) REVIEW AND CORRECTION PROCEDURE.—The Secretary, on his or her own motion or upon a request by any person (including a State), shall review the list issued by the Secretary pursuant to subparagraph (D). If the Secretary determines there is cause to believe that a mistake was made in the accuracy of the final list, the Secretary shall commence a proceeding to determine whether the list published pursuant to subparagraph (D) should be corrected. If the Secretary determines that there is a mistake in the accuracy of the list, the Secretary shall correct the

publication under subparagraph (D) to reflect the determination of the Secretary.

"(6) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to—

"(A) allow the operation on any segment of the National System of Interstate and Defense Highways of any longer combination vehicle prohibited under section 127(d) of title 23, United States Code;

"(B) affect in any way the operation of commercial motor vehicles having only 1 cargo carrying unit; or

"(C) affect in any way the operation in a State of commercial motor vehicles with 2 or more cargo carrying units if such vehicles were in actual operation on a regular or periodic basis (including seasonal operation) in that State on or before June 1, 1991, authorized under State statute, regulation, or lawful State permit.

"(7) CARGO CARRYING UNIT DEFINED.—As used in this subsection, 'cargo carrying unit' means any portion of a commercial motor vehicle combination (other than the truck tractor) used for the carrying of cargo, including a trailer, semitrailer, or the cargo carrying section of a single unit truck.

"(8) REGULATIONS REGARDING MINOR ADJUSTMENTS.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall issue regulations establishing criteria for the States to follow in making minor adjustments under paragraph (4).

"(9) REGULATIONS FOR DEFINING NONEASILY DISMANTLED OR DIVIDED LOADS.—For the purposes of this subsection only, the Secretary shall define by regulation loads which cannot be easily dismantled or divided.".

(b) APPLICABILITY TO BUSES.—

(1) GENERAL RULE.—Section 411(a) of such Act is amended by inserting "of less than 45 feet on the length of any bus," after "vehicle length limitation". 49 USC app. 2311.

(2) ACCESS TO POINTS OF LOADING AND UNLOADING.—Section 412(a)(2) of such Act is amended by inserting ", motor carrier of passengers," after "household goods carriers". 49 USC app. 2312.

(c) CONFORMING AMENDMENT.—Section 411(e)(1) of such Act is amended by striking "those Primary System highways" and inserting "those highways of the Federal-aid primary system in existence on June 1, 1991,".

SEC. 4007. TRAINING OF DRIVERS; LONGER COMBINATION VEHICLE REGULATIONS, STUDIES, AND TESTING. 49 USC app. 2302 note.

(a) ENTRY LEVEL.—

(1) STUDY OF PRIVATE SECTOR.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall report to Congress on the effectiveness of the efforts of the private sector to ensure adequate training of entry level drivers of commercial motor vehicles. In preparing the report, the Secretary shall solicit the views of interested persons. Reports.

(2) RULEMAKING PROCEEDING.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall commence a rulemaking proceeding on the need to require training of all entry level drivers of commercial motor vehicles. Such rulemaking proceeding shall be completed not later than 24 months after the date of such enactment.

Reports.

(3) FOLLOWUP STUDY.—If the Secretary determines under the proceeding conducted under paragraph (2) that it is not in the public interest to issue a rule that requires training for all entry level drivers, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives not later than 25 months after the date of the enactment of this Act a report on the reasons for such decision, together with the results of a cost benefit analysis which the Secretary shall conduct with respect to such proceeding.

(b) LCVs TRAINING REQUIREMENTS.—

(1) INITIATION OF RULEMAKING PROCEEDING.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding to establish minimum training requirements for operators of longer combination vehicles. This training shall include certification of an operator's proficiency by an instructor who has met the requirements established by the Secretary.

Regulations.

(2) FINAL RULE.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall issue a final regulation establishing minimum training requirements for operators of longer combination vehicles.

(c) SAFETY CHARACTERISTICS.—

(1) STUDY.—The Comptroller General shall conduct a study of the safety of longer combination vehicles for the purpose of comparing the safety characteristics and performance, including engineering and design safety characteristics, of such vehicles to other truck-trailer combination vehicles and for the purpose of reviewing the history and effectiveness of State safety enforcement pertaining to such vehicles for those States in which such vehicles are permitted to operate. Such study shall include an assessment of each of the following:

(A) The adequacy of currently available data bases for the purpose of determining the safety of longer combination vehicles and recommending safety improvements.

(B) Whether or not such States are actively monitoring the safety of such operations.

(C) The best available information on the safety of such operations.

(D) Enforcement actions which have been taken in such States to ensure the safety of such operations.

(E) Current procedures and controls used by such States to ensure the safety of operation of such vehicles.

(F) Whether or not any special inspections of equipment maintenance is required to improve the safety of such operations.

(G) The economic and safety impact of longer combination vehicles on shared highways.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall transmit a report on the results of the study conducted under paragraph (1) to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(d) OPERATIONS OF LONGER COMBINATION VEHICLES.—

(1) TESTS.—The Secretary shall conduct on the road tests with respect to the driver and vehicle characteristics of operations of longer combination vehicles for the purpose of determining whether or not any modifications are necessary to the Federal commercial motor vehicle safety standards of the Department of Transportation as they apply to longer combination vehicles. At a minimum, such tests shall examine driver fatigue and stress and time of operation characteristics. Such tests also shall examine the characteristics of longer combination vehicles, including an assessment of on board computers, anti-lock brakes, and anti-trailer under ride systems to determine the potential safety effectiveness of those technologies as applied to such vehicles.

(2) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall transmit a report on the results of the tests conducted under paragraph (1) to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(e) FUNDING.—There shall be available to the Secretary for carrying out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $1,000,000 per fiscal year for each of fiscal years 1992, 1993, and 1994. Such sums shall remain available until expended.

(f) LONGER COMBINATION VEHICLE DEFINED.—For the purposes of this section, the term "longer combination vehicle" means any combination of a truck tractor and 2 or more trailers or semitrailers which operate on the National System of Interstate and Defense Highways with a gross vehicle weight greater than 80,000 pounds.

SEC. 4008. PARTICIPATION IN INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT.

49 USC 11506 note.

(a) WORKING GROUP.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall establish a working group comprised of State and local government officials, including representatives of the National Governors' Association, the American Association of Motor Vehicle Administrators, the National Conference of State Legislatures, the Federation of Tax Administrators, the Board of Directors for the International Fuel Tax Agreement, and a representative of the Regional Fuel Tax Agreement, for the purpose of—

(1) proposing procedures for resolving disputes among States participating in the International Registration Plan and among States participating in the International Fuel Tax Agreement including designation of the Department of Transportation or any other person for resolving such disputes; and

(2) providing technical assistance to States participating or seeking to participate in the Plan or in the Agreement.

(b) CONSULTATION REQUIREMENT.—The working group established under this section shall consult with members of the motor carrier industry in carrying out subsection (a).

(c) REPORTS.—Not later than 24 months after the date of the enactment of this Act, the working group established under this section shall transmit a report to the Secretary, to the Committee on Commerce, Science, and Transportation of the Senate, to the Committee on Public Works and Transportation and the Committee

on the Judiciary of the House of Representatives, to those States participating in the International Registration Plan, and to those States participating in the International Fuel Tax Agreement. The report shall contain a detailed statement of the findings and conclusions of the working group, together with its joint recommendations concerning the matters referred to in subsection (a). After transmission of such report, the working group may periodically review and modify the findings and conclusions and the joint recommendations as appropriate and transmit a report containing such modifications to the Secretary and such committees.

(d) APPLICABILITY OF ADVISORY COMMITTEE ACT.—The working group established under this section shall not be subject to the Federal Advisory Committee Act.

(e) GRANTS.—

(1) IN GENERAL.—The Secretary may make grants to States and appropriate persons for the purpose of facilitating participation in the International Registration Plan and participation in the International Fuel Tax Agreement and for the purpose of administrative improvements in any other base State fuel use tax agreement in existence as of January 1, 1991, including such purposes as providing technical assistance, personnel training, travel costs, and technology and equipment associated with such participation.

(2) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a grant with funds made available under this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the grant.

(f) VEHICLE REGISTRATION.—After September 30, 1996, no State (other than a State which is participating in the International Registration Plan) shall establish, maintain, or enforce any commercial motor vehicle registration law, regulation, or agreement which limits the operation of any commercial motor vehicle within its borders which is not registered under the laws of the State if the vehicle is registered under the laws of any other State participating in the International Registration Plan.

(g) FUEL USE TAX.—

(1) REPORTING REQUIREMENTS.—After September 30, 1996, no State shall establish, maintain, or enforce any law or regulation which has fuel use tax reporting requirements (including tax reporting forms) which are not in conformity with the International Fuel Tax Agreement.

(2) PAYMENT.—After September 30, 1996, no State shall establish, maintain, or enforce any law or regulation which provides for the payment of a fuel use tax unless such law or regulation is in conformity with the International Fuel Tax Agreement with respect to collection of such a tax by a single base State and proportional sharing of such taxes charged among the States where a commercial motor vehicle is operated.

(3) LIMITATION.—For purposes of paragraphs (1) and (2), in the event of an amendment to the International Fuel Tax Agreement, conformity by a State that is not participating in such Agreement when such amendment is made may not be required with respect to such amendment until a reasonable time period for such conformity has elapsed, but in no case earlier than—

(A) the expiration of the 365-day period beginning on the first day that the corresponding compliance with such

amendment is required of States that are participating in such Agreement; or

(B) the expiration of the 365-day period beginning on the day the relevant office of the State receives written notice of such amendment from the Secretary.

(4) EXCEPTION.—Paragraphs (1), (2), and (3) shall not apply with respect to a State that participates on January 1, 1991, in the Regional Fuel Tax Agreement and that continues to participate after such date in such Agreement.

(h) ENFORCEMENT.—

(1) ACTION.—On the request of the Secretary, the Attorney General may commence, in a court of competent jurisdiction, a civil action for such injunctive relief as may be appropriate to ensure compliance with subsections (f) and (g).

(2) VENUE.—Such action may be commenced only in the State in which relief is required to ensure such compliance.

(3) RELIEF.—Subject to section 1341 of title 28, United States Code, such court, upon a proper showing—

(A) shall issue a temporary restraining order or a preliminary or permanent injunction; and

(B) may require in such injunction that the State or any person comply with such subsections.

(i) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in subsections (f) and (g) shall be construed as limiting the amount of money a State may charge for registration of a commercial motor vehicle or the amount of any fuel use tax a State may impose.

(j) FUNDING.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal year 1992 $1,000,000 for funding the activities of the working group under this section and $5,000,000 for making grants under subsection (e). Amounts authorized by the preceding sentence shall be subject to the obligation limitation established by section 102 of this Act for fiscal year 1992. From sums made available under section 404 of the Surface Transportation Assistance Act of 1982, the Secretary shall provide for each of fiscal years 1993 through 1997 $1,000,000 for funding the activities of the working group under this section and $5,000,000 for making grants under subsection (e). Such sums shall remain available until expended.

(k) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMERCIAL MOTOR VEHICLE.—The term "commercial motor vehicle"—

(A) as used with respect to the International Registration Plan, has the meaning the term "apportionable vehicle" has under such plan; and

(B) as used with respect to the International Fuel Tax Agreement, has the meaning the term "qualified motor vehicle" has under such agreement.

(2) FUEL USE TAX.—The term "fuel use tax" means a tax imposed on or measured by the consumption of fuel in a motor vehicle.

(3) INTERNATIONAL FUEL TAX AGREEMENT.—The term "International Fuel Tax Agreement" means the interstate agreement for the collection and distribution of fuel use taxes paid by motor carriers, developed under the auspices of the National Governors' Association.

(4) INTERNATIONAL REGISTRATION PLAN.—The term "International Registration Plan" means the interstate agreement for

the apportionment of vehicle registration fees paid by motor carriers, developed by the American Association of Motor Vehicle Administrators.

(5) REGIONAL FUEL TAX AGREEMENT.—The term "Regional Fuel Tax Agreement" means the interstate agreement for the collection and distribution of fuel use taxes paid by motor carriers in the States of Maine, Vermont, and New Hampshire.

(6) STATE.—The term "State" means the 48 contiguous States and the District of Columbia.

SEC. 4009. VIOLATIONS OF OUT-OF-SERVICE ORDERS.

(a) FEDERAL REGULATIONS.—The Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2701-2716) is amended by adding at the end the following new section:

49 USC app. 2717.

"SEC. 12020. VIOLATION OF OUT-OF-SERVICE ORDERS.

"(a) REGULATIONS.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations of out-of-service orders by persons operating commercial motor vehicles.

"(b) MINIMUM REQUIREMENTS.—Regulations issued under subsection (a) shall, at a minimum, require that—

"(1) any operator of a commercial motor vehicle who is found to have committed a first violation of an out-of-service order shall be disqualified from operating such a vehicle for a period of not less than 90 days and shall be subject to a civil penalty of not less than $1,000;

"(2) any operator of a commercial motor vehicle who is found to have committed a second violation of an out-of-service order shall be disqualified from operating such a vehicle for a period of not less than 1 year and not more than 5 years and shall be subject to a civil penalty of not less than $1,000; and

"(3) any employer that knowingly allows, permits, authorizes, or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall be subject to a civil penalty of not more than $10,000.

"(c) DEADLINES.—The regulations required under subsection (a) shall be developed pursuant to a rulemaking proceeding initiated within 60 days after the date of the enactment of this section and shall be issued not later than 12 months after such date of enactment.".

(b) STATE REGULATIONS.—Section 12009(a)(21) of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2708(a)(21)) is amended by inserting "and section 12020(a)" before the period at the end.

SEC. 4010. EXEMPTION OF CUSTOM HARVESTING FARM MACHINERY.

Section 12019(5) of the Commercial Motor Vehicle Safety Act of 1986 (49 U.S.C. App. 2716(5)), relating to the definition of motor vehicle, is amended by inserting "or custom harvesting farm machinery" before the period at the end.

SEC. 4011. COMMON CARRIERS PROVIDING TRANSPORTATION FOR CHARITABLE PURPOSES.

Section 10723(b) of title 49, United States Code, is amended—

(1) in paragraph (2) by inserting "(other than a motor carrier of passengers)" after "carrier"; and

(2) by adding at the end the following new paragraph:

"(3) In the case of a motor carrier of passengers, that carrier may also establish a rate and related rule equal to the rate charged for the transportation of 1 individual when that rate is for the transportation of—

"(A) a totally blind individual and an accompanying guide or a dog trained to guide the individual;

"(B) a disabled individual and accompanying attendant, or animal trained to assist the individual, or both, when required because of disability; or

"(C) a hearing-impaired individual and a dog trained to assist the individual.".

SEC. 4012. BRAKE PERFORMANCE STANDARDS.

49 USC app. 2521 note.

(a) INITIATION OF RULEMAKING.—Not later than May 31, 1992, the Secretary shall initiate rulemaking concerning methods for improving braking performance of new commercial motor vehicles, including truck tractors, trailers, and their dollies. Such rulemaking shall include an examination of antilock systems, means of improving brake compatibility, and methods of ensuring effectiveness of brake timing.

(b) LIMITATION WITH RESPECT TO RULES.—Any rule which the Secretary determines to issue regarding improved braking performance pursuant to the rulemaking initiated under this section shall take into account the need for the rule and, in the case of trailers, shall include articulated vehicles and their manufacturers.

(c) RULEMAKING PROCEDURE.—Any rulemaking under this section shall, consistent with section 229 of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2519(b)), be carried out pursuant to, and in accordance with, the National Traffic and Motor Vehicle Safety Act of 1966.

(d) COMPLETION OF RULEMAKING.—The Secretary shall complete the rulemaking within 18 months after its initiation; except that the Secretary may extend that period for an additional 6 months after giving notice in the Federal Register of the need for such an extension. Such extension shall not be reviewable.

(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as affecting the authority of the Secretary under this Act (or preventing the Secretary) from simultaneously initiating a rulemaking concerning methods for improving brake performance in the case of vehicles, other than new manufactured commercial motor vehicles, and for considering the necessity for effective enforcement of any rule relating to improving such performance as part of the rulemaking proceeding and for considering the reliability, maintainability, and durability of any brake equipment.

(f) COMMERCIAL MOTOR VEHICLE DEFINED.—For purposes of this section only, the term "commercial motor vehicle" means any self-propelled or towed vehicle used on highways to transport passengers or property if such vehicle has a gross vehicle weight rating of 26,001 or more pounds.

SEC. 4013. FHWA POSITIONS.

To help implement the purposes of this title, the Secretary in fiscal year 1992 shall employ and maintain thereafter 2 additional employees in positions at the headquarters of the Federal Highway Administration in excess of the number of employees authorized for fiscal year 1991 for the Federal Highway Administration.

49 USC app. 2511a.

SEC. 4014. COMPLIANCE REVIEW PRIORITY.

If the Secretary identifies a pattern of violations of State or local traffic safety laws or regulations, or commercial motor vehicle safety rules, regulations, standards, or orders, among the drivers of commercial motor vehicles employed by a particular motor carrier, the Secretary or a State representative shall ensure that such motor carrier receives a high priority for review of such carrier's compliance with applicable Federal and State commercial motor vehicle safety regulations.

TITLE V—INTERMODAL TRANSPORTATION

SEC. 5001. NATIONAL GOAL TO PROMOTE INTERMODAL TRANSPORTATION.

Section 302 of title 49, United States Code (relating to policy standards for transportation), is further amended by adding at the end the following new subsection:

"(e) INTERMODAL TRANSPORTATION.—It is the policy of the United States Government to encourage and promote development of a national intermodal transportation system in the United States to move people and goods in an energy-efficient manner, provide the foundation for improved productivity growth, strengthen the Nation's ability to compete in the global economy, and obtain the optimum yield from the Nation's transportation resources.".

SEC. 5002. DUTIES OF SECRETARY; OFFICE OF INTERMODALISM.

(a) DUTIES OF SECRETARY.—Section 301 of title 49, United States Code (relating to leadership, consultation and cooperation), is amended by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) coordinate Federal policy on intermodal transportation and initiate policies to promote efficient intermodal transportation in the United States;".

49 USC 301 note.

(b) INTERMODAL TRANSPORTATION ADVISORY BOARD.-

(1) ESTABLISHMENT.—There shall be established within the Office of the Secretary an Intermodal Transportation Advisory Board.

(2) MEMBERSHIP.—The Intermodal Transportation Advisory Board shall consist of the Secretary, who shall serve as Chairman, and the Administrator, or his or her designee, of—

(A) the Federal Highway Administration;
(B) the Federal Aviation Administration;
(C) the Maritime Administration;
(D) the Federal Railroad Administration; and
(E) the Federal Transit Administration.

(3) FUNCTIONS.—The Intermodal Transportation Advisory Board shall provide recommendations for carrying out the responsibilities of the Secretary described in section 301(3) of title 49, United States Code.

(c) OFFICE OF INTERMODALISM.—

49 USC 301 note.

(1) ESTABLISHMENT.—The Secretary shall establish within the Office of the Secretary an Office of Intermodalism.

(2) DIRECTOR.—The Office shall be headed by a Director who shall be appointed by the Secretary not later than 6 months after the date of the enactment of this Act.

(3) FUNCTION.—The Director shall be responsible for carrying out the responsibilities of the Secretary described in section 301(3) of title 49, United States Code.

(4) INTERMODAL TRANSPORTATION DATA BASE.—The Director shall develop, maintain, and disseminate intermodal transportation data through the Bureau of Transportation Statistics. The Director shall coordinate the collection of data for the data base with the States and metropolitan planning organizations. The data base shall include—

(A) information on the volume of goods and number of people carried in intermodal transportation by relevant classification;

(B) information on patterns of movement of goods and people carried in intermodal transportation by relevant classification in terms of origin and destination; and

(C) information on public and private investment in intermodal transportation facilities and services.

The Director shall make information from the data base available to the public. Public information.

(5) RESEARCH.—The Director shall be responsible for coordinating Federal research on intermodal transportation in accordance with the plan developed pursuant to section 6009(b) of this Act and for carrying out additional research needs identified by the Director.

(6) TECHNICAL ASSISTANCE.—The Director shall provide technical assistance to States and to metropolitan planning organizations for urban areas having a population of 1,000,000 or more in collecting data relating to intermodal transportation in order to facilitate the collection of such data by such States and metropolitan planning organizations.

(7) ADMINISTRATIVE AND CLERICAL SUPPORT.—The Director shall provide administrative and clerical support to the Intermodal Transportation Advisory Board.

SEC. 5003. MODEL INTERMODAL TRANSPORTATION PLANS. Grants. 49 USC 301 note.

(a) GRANTS.—The Secretary shall make grants to States for the purpose of developing model State intermodal transportation plans which are consistent with the policy set forth in section 302(e) of title 49, United States Code. Such model plans shall include systems for collecting data relating to intermodal transportation.

(b) DISTRIBUTION.—The Secretary shall award grants to States under this section which represent a variety of geographic regions and transportation needs, patterns, and modes.

(c) TRANSMITTAL OF PLANS.—As a condition to receiving a grant under this section, the Secretary shall require that a State provide assurances that the State will transmit to the Secretary a State intermodal transportation plan not later than 18 months after the date of receipt of such grant.

(d) AGGREGATE AMOUNT.—The Secretary shall reserve, from amounts deducted under section 104(a) of title 23, United States Code, $3,000,000 for the purpose of making grants under this section. The aggregate amount which a State may receive in grants under this section shall not exceed $500,000.

49 USC 102 note. Contracts.

SEC. 5004. SURFACE TRANSPORTATION ADMINISTRATION.

(a) STUDY.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall enter into an agreement with the National Academy of Public Administration to continue a study of options for organizing the Department of Transportation to increase the effectiveness of program delivery, reduce costs, and improve intermodal coordination among surface transportation-related agencies.

(b) REPORT.—The Secretary shall report to Congress on the findings of the study continued under subsection (a) and recommend appropriate organizational changes no later than January 1, 1993. No organizational changes shall be implemented until such changes are approved by law.

49 USC 301 note.

SEC. 5005. NATIONAL COMMISSION ON INTERMODAL TRANSPORTATION.

(a) ESTABLISHMENT.—There is established a National Commission on Intermodal Transportation.

(b) FUNCTION.—The Commission shall make a complete investigation and study of intermodal transportation in the United States and internationally. The Commission shall determine the status of intermodal transportation, the problems that exist with respect to intermodal transportation, and the resources needed to enhance intermodal transportation. Based on such investigation and study, the Commission shall recommend those policies which need to be adopted to achieve the national goal of an efficient intermodal transportation system.

(c) SPECIFIC MATTERS TO BE ADDRESSED.—The Commission shall specifically investigate and study the following:

(1) INTERMODAL STANDARDIZATION.—The Commission, in coordination with the National Academy of Sciences, shall examine current and potential impediments to international standardization in specific elements of intermodal transportation. The Commission shall evaluate the potential benefits and relative priority of standardization in each such element and the time period and investment necessary to adopt such standards.

(2) INTERMODAL IMPACTS ON PUBLIC WORKS INFRASTRUCTURE.—The Commission shall examine current and projected intermodal traffic flows, including the current and projected market for intermodal transportation, and how such traffic flows affect infrastructure needs. The Commission shall make recommendations as to capital needs for infrastructure development that will be required to accommodate intermodal transportation, particularly with respect to surface transportation access to airports and ports.

(3) LEGAL IMPEDIMENTS TO EFFICIENT INTERMODAL TRANSPORTATION.—The Commission shall identify legal impediments to efficient intermodal transportation. Specifically, the Commission shall study the relationship between current regulatory schemes for individual modes of transportation and intermodal transportation efficiency.

(4) FINANCIAL ISSUES.—The Commission shall examine existing impediments to the efficient financing of intermodal transportation improvements. In carrying out such examination, the Commission shall examine (A) the most efficient use of existing sources of funds for connecting individual modes of transportation and for accommodating transfers between such

modes, and (B) the use of innovative methods of financing for making such improvements. The Commission shall examine current methods of public funding, the desirability of increased flexibility in the use of amounts in Federal transportation trust funds, and increased use of private sources of funding.

(5) NEW TECHNOLOGIES.—The Commission shall study new technologies for improving intermodal transportation and problems associated with incorporating these new technologies in intermodal transportation.

(6) DOCUMENTATION.—The Commission shall study problems in documentation resulting from intermodal transfers of freight and make recommendations for achieving uniform, efficient, and simplified documentation.

(7) RESEARCH AND DEVELOPMENT.—The Commission shall identify the areas relating to intermodal transportation for which continued research and development is needed after the report required by this section is completed, and propose an agenda for carrying out such research and development.

(8) PRODUCTIVITY.—The Commission shall examine the relationship of intermodal transportation to transportation rates, transportation costs, and economic productivity.

(d) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 11 members as follows:

(A) 3 members appointed by the President. President.

(B) 2 members appointed by the Speaker of the House of Representatives.

(C) 2 members appointed by the minority leader of the House of Representatives.

(D) 2 members appointed by the majority leader of the Senate.

(E) 2 members appointed by the minority leader of the Senate.

(2) QUALIFICATIONS.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals interested in intermodal transportation policy, including representatives of Federal, State, and local governments, other public transportation authorities or agencies, and organizations representing transportation providers, shippers, labor, the financial community, and consumers.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(e) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(f) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(g) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(h) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information (other than information required by any statute of the United States to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(i) REPORT AND PROPOSED NATIONAL INTERMODAL TRANSPORTATION PLAN.—Not later than September 30, 1993, the Commission shall transmit to Congress a final report on the results of the investigation and study conducted under this section. The report shall include recommendations of the Commission for implementing the policy set forth in section 302(e) of title 49, United States Code, including a proposed national intermodal transportation plan and a proposed agenda for implementing the plan.

(j) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under subsection (i). All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the National Archives.

Historic preservation. Records.

TITLE VI—RESEARCH

PART A—PROGRAMS, STUDIES, AND ACTIVITIES

SEC. 6001. RESEARCH AND TECHNOLOGY PROGRAM.

Subsections (a), (b), and (c) of section 307 of title 23, United States Code, are amended to read as follows:

"(a) RESEARCH AND TECHNOLOGY PROGRAM.—

"(1) AUTHORITY OF THE SECRETARY.—

"(A) IN GENERAL.—The Secretary may engage in research, development, and technology transfer activities with respect to motor carrier transportation and all phases of highway planning and development (including construction, operation, modernization, development, design, maintenance, safety, financing, and traffic conditions) and the effect thereon of State laws and 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 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, the National Academy of Sciences, the American Association of State Highway and Transportation Officials, or any State agency, authority, association, institution, corporation (profit or nonprofit), organization, or person.

"(C) RESEARCH FELLOWSHIPS.—

"(i) GENERAL AUTHORITY.—The Secretary may, acting either independently or in cooperation with other Federal departments, agencies, and instrumentalities, make grants for research fellowships for any purpose for which research is authorized by this section.

"(ii) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—The Secretary shall establish and implement a transportation research fellowship program for the purpose of attracting qualified students to the field of transportation engineering and research. Such program shall be known as the "Dwight David Eisenhower Transportation Fellowship Program". Of the funds made available pursuant to paragraph (3) for each fiscal year beginning after September 30, 1991, the Secretary shall expend not less than $2,000,000 per fiscal year to carry out such program.

"(2) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

"(A) IN GENERAL.—For the purposes of encouraging innovative solutions to highway problems and stimulating the marketing of new technology by private industry, the Secretary is authorized to undertake, 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 which 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 such term is defined under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a).

"(C) FEDERAL SHARE.—The Federal share payable on account of activities carried out under a cooperative research and development agreement entered into under this paragraph shall not exceed 50 percent of the total cost of such activities; except that, if there is substantial public interest or benefit, the Secretary may approve a higher Federal share. All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware development costs, shall be treated as part of the non-Federal share of the cost of such activities for purposes of the preceding sentence.

"(D) UTILIZATION OF TECHNOLOGY.—The research, development, or utilization of any technology pursuant to 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.

"(3) FUNDS.—

"(A) IN GENERAL.—The funds necessary to carry out this subsection and subsections (b), (d), and (e) shall be taken by the Secretary out of administrative funds deducted pursuant to section 104(a) of this title and such funds as may be deposited by any cooperating organization or person in a

special account of the Treasury of the United States established for such purposes.

"(B) MINIMUM EXPENDITURES ON LONG-TERM RESEARCH PROJECTS.—Not less than 15 percent of the funds made available under this paragraph shall be expended on long-term research projects which are unlikely to be completed within 10 years.

"(4) WAIVER OF ADVERTISING REQUIREMENTS.—The provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) shall not be applicable to contracts or agreements entered into under this section.

"(b) MANDATORY CONTENTS OF RESEARCH PROGRAM.—

"(1) INCLUSION OF CERTAIN STUDIES.—The Secretary shall include in the highway research program under subsection (a) studies of economic highway geometrics, structures, and desirable weight and size standards for vehicles using the public highways and of the feasibility of uniformity in State regulations with respect to such standards. The highway research program shall also include studies to identify and measure, quantitatively and qualitatively, those factors which relate to economic, social, environmental, and other impacts of highway projects.

"(2) SHRP RESULTS.—

"(A) IMPLEMENTATION.—The highway research program under subsection (a) shall include a program to implement results of the strategic highway research program carried out under subsection (d) (including results relating to automatic intrusion alarms for street and highway construction work zones) and to continue the long-term pavement performance tests being carried out under such program.

"(B) MINIMUM FUNDING.—Of amounts deducted under section 104(a) of this title, the Secretary shall expend not less than $12,000,000 in fiscal year 1992, $16,000,000 in fiscal year 1993, and $20,000,000 per fiscal year for each of fiscal years 1994, 1995, 1996, and 1997 to carry out this paragraph.

"(3) SURFACE TRANSPORTATION SYSTEM PERFORMANCE INDICATORS.—The highway research program under subsection (a) shall include a coordinated long-term program of research for the development, use, and dissemination of performance indicators to measure the performance of the surface transportation system of the United States, including indicators for productivity, efficiency, energy use, air quality, congestion, safety, maintenance, and other factors which reflect the overall performance of such system.

"(4) SHORT HAUL PASSENGER TRANSPORTATION SYSTEMS.—The Secretary shall conduct necessary systems research in order to develop a concept for a lightweight, pneumatic tire multiple-unit, battery-powered system, in conjunction with recharging stations at strategic locations. The Secretary shall create a potential systems concept and, as part of the surface transportation research and development plan under subsection (b), make recommendations to Congress by January 15, 1993.

"(5) SUPPORTING INFRASTRUCTURE.—The Secretary shall establish a program to strengthen and expand surface transportation infrastructure research and development. The program shall include the following elements:

"(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) Expansion of the Department of Transportation's inspection and mobile nondestructive examination capabilities, including consideration of the use of high energy field radiography for more thorough and more frequent inspections of bridge structures as well as added support to State highway departments.

"(C) The Secretary shall determine whether or not to initiate a construction equipment research and development program directed toward the reduction of costs associated with the construction of highways and mass transit systems. The Secretary shall transmit to Congress a report containing such determination on or before July 1, 1992. Reports.

"(D) The Secretary shall undertake or supervise surface transportation infrastructure research to develop—

"(i) nondestructive evaluation equipment for use with existing infrastructure facilities and for next generation infrastructure facilities that utilize advanced materials;

"(ii) information technologies, including—

"(I) appropriate computer programs to collect and analyze data on the status of the existing infrastructure facilities for enhancing management, growth, and capacity; and

"(II) dynamic simulation models of surface transportation systems for predicting capacity, safety, and infrastructure durability problems, for evaluating planned research projects, and for testing the strengths and weaknesses of proposed revisions in surface transportation operations programs; and

"(iii) new and innovative technologies to enhance and facilitate field construction and rehabilitation techniques for minimizing disruption during repair and maintenance of existing structures.

"(c) STATE PLANNING AND RESEARCH.—

"(1) GENERAL RULE.—2 percent of the sums apportioned for each fiscal year beginning after September 30, 1991, to any State under sections 104 and 144 of this title and for highway projects under section 103(e)(4) of this title shall be available for expenditure by the State highway department, in consultation with the Secretary, only for the following purposes:

"(A) Engineering and economic surveys and investigations.

"(B) The planning of future highway programs and local public transportation systems and for planning for the financing thereof, including statewide planning under section 135 of this title.

"(C) Development and implementation of management systems under section 303 of this title.

"(D) Studies of the economy, safety, and convenience of highway usage and the desirable regulation and equitable taxation thereof.

"(E) Research, development, and technology transfer activities necessary in connection with the planning, design, construction, and maintenance of highway, public transportation, and intermodal transportation systems and study, research, and training on engineering standards and construction materials for such systems, including evaluation and accreditation of inspection and testing and the regulation and taxation of their use.

"(2) MINIMUM EXPENDITURES ON RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—Not less than 25 percent of the funds which are apportioned to a State for a fiscal year and are subject to paragraph (1) shall be expended by the State for research, development, and technology transfer activities described in paragraph (1) relating to highway, public transportation, and intermodal transportation systems unless the State certifies to the Secretary for such fiscal year that total expenditures by the State for transportation planning under sections 134 and 135 will exceed 75 percent of the amount of such funds and the Secretary accepts such certification.

"(3) FEDERAL SHARE.—The Federal share payable on account of any project financed with funds which are subject to paragraph (1) 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.

"(4) ADMINISTRATION OF SUMS.—Funds which are subject to paragraph (1) 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) of this title.

SEC. 6002. NATIONAL HIGHWAY INSTITUTE.

Section 321 of title 23, United States Code, is amended to read as follows:

"§ 321. National Highway Institute

"(a) ESTABLISHMENT; DUTIES; PROGRAMS.—

"(1) ESTABLISHMENT.—The Secretary shall establish and operate in the Federal Highway Administration a National Highway Institute (hereinafter in this section referred to as the 'Institute').

"(2) DUTIES.—The Institute shall develop and administer, in cooperation with the State transportation or highway departments, and any national or international entity, training programs of instruction for Federal Highway Administration, State and local transportation and highway department employees, State and local police, public safety and motor vehicle employees, and United States citizens and foreign nationals engaged or to be engaged in highway work of interest to the United States. The Secretary shall administer, through the Institute, the authority vested in the Secretary by this title or by any other provision of law for the development and conduct of education and training programs relating to highways.

"(3) TYPES OF PROGRAMS.—Programs which the Institute may develop and administer may include courses in modern developments, techniques, management, and procedures relating to highway planning, environmental factors, acquisition of rights-of-way, relocation assistance, engineering, safety, construction,

maintenance, contract administration, motor carrier activities, and inspection.

"(b) SET-ASIDE; FEDERAL SHARE.—Not to exceed 1/16 of 1 percent of all funds apportioned to a State under section 104(b)(3) for the surface transportation program shall be available for expenditure by the State highway department for payment of not to exceed 80 percent of the cost of tuition and direct educational expenses (but not travel, subsistence, or salaries) in connection with the education and training of State and local highway department employees as provided in this section.

"(c) FEDERAL RESPONSIBILITY.—Education and training of Federal, State, and local highway employees authorized by this section shall be provided—

"(1) by the Secretary at no cost to the States and local governments for those subject areas which are a Federal program responsibility; or

"(2) in any case in which education and training are to be paid for under subsection (b), by the State (subject to the approval of the Secretary) through grants and contracts with public and private agencies, institutions, individuals, and the Institute; except that private agencies and individuals shall pay the full cost of any education and training received by them.

"(d) TRAINING FELLOWSHIPS; COOPERATION.—The Institute is authorized, subject to approval of the Secretary, to engage in all phases of contract authority for training purposes authorized by this section, including the granting of training fellowships. The Institute is also authorized to carry out its authority independently or in cooperation with any other branch of the Government, State agency, authority, association, institution, corporation (profit or nonprofit), any other national or international entity, or any other person.

"(e) COLLECTION OF FEES.—

"(1) GENERAL RULE.—The Institute may, in accordance with this subsection, assess and collect fees solely to defray the costs of the Institute in developing and administering education and training programs under this section.

"(2) LIMITATION.—Fees may be assessed and collected under this subsection only in a manner which may reasonably be expected to result in the collection of fees during any fiscal year in an aggregate amount which does not exceed the aggregate amount of the costs referred to in paragraph (1) for the fiscal year.

"(3) PERSONS SUBJECT TO FEES.—Fees may be assessed and collected under this subsection only with respect to—

"(A) persons and entities for whom education or training programs are developed or administered under this section; and

"(B) persons and entities to whom education or training is provided under this section.

"(4) AMOUNT OF FEES.—The fees assessed and collected under this subsection shall be established in a manner which ensures that the liability of any person or entity for a fee is reasonably based on the proportion of the costs referred to in paragraph (1) which relate to such person or entity.

"(f) FUNDS.—The funds required to carry out this section may be from the sums deducted for administration purposes under section 104(a). The sums provided pursuant to this subsection may be combined or held separate from the fees or memberships collected

under subsection (e) and may be administered by the Secretary as a fund which shall be available until expended.

"(g) CONTRACTS.—The provisions of section 3709 of the Revised Statutes (41 U.S.C. 5) shall not be applicable to contracts or agreements made under the authority of this section.".

SEC. 6003. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

Chapter 3 of title 23, United States Code, is amended by adding at the end the following new section:

"§ 325. International highway transportation outreach program

"(a) ACTIVITIES.—The Secretary is authorized to engage in activities to inform the domestic highway community of technological innovations abroad that could significantly improve highway transportation in the United States, to promote United States highway transportation expertise internationally, and to increase transfers of United States highway transportation technology to foreign countries. Such activities may include—

"(1) development, monitoring, assessment, and dissemination domestically of information about foreign highway transportation innovations that could significantly improve highway transportation in the United States;

"(2) research, development, demonstration, training, and other forms of technology transfer and exchange;

"(3) informing other countries about the technical quality of American highway transportation goods and services through participation in trade shows, seminars, expositions, and other such activities;

"(4) offering those Federal Highway Administration technical services which cannot be readily obtained from the United States private sector to be incorporated into the proposals of United States firms undertaking foreign highway transportation projects if the costs for assistance will be recovered under the terms of each project; and

"(5) conducting studies to assess the need for or feasibility of highway transportation improvements in countries that are not members of the Organization for Economic Cooperation and Development as of the date of the enactment of this section, and in Greece and Turkey.

"(b) COOPERATION.—The Secretary may carry out the authority granted by this section, in cooperation with appropriate United States Government agencies and any State or local agency, authority, association, institution, corporation (profit or nonprofit), foreign government, multinational institution, or any other organization or person.

"(c) FUNDS.—The funds available to carry out the provisions of this section shall include funds deposited in a special account with the Secretary of the Treasury for such purposes by any cooperating organization or person. The funds shall be available for promotional materials, travel, reception and representation expenses necessary to carry out the activities authorized by this section. Reimbursements for services provided under this section shall be credited to the appropriation concerned.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of such title is amended by adding at the end the following new item:

"325. International highway transportation outreach program.".

SEC. 6004. EDUCATION AND TRAINING PROGRAM.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by adding at the end the following new section:

"§ 326. Education and training program

"(a) AUTHORITY.—The Secretary is authorized to carry out a transportation assistance program that will provide highway and transportation agencies in (1) urbanized areas of 50,000 to 1,000,000 population, and (2) rural areas, access to modern highway technology.

"(b) GRANTS AND CONTRACTS.—The Secretary may make grants and enter into contracts for education and training, technical assistance, and related support service that will—

"(1) assist rural local transportation agencies to develop and expand their expertise in road and transportation areas (including pavement, bridge and safety management systems), to improve roads and bridges, to enhance programs for the movement of passengers and freight, to deal effectively with special road related problems by preparing and providing training packages, manuals, guidelines, and technical resource materials, and developing a tourism and recreational travel technical assistance program;

"(2) identify, package, and deliver usable highway technology to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with road related problems; and

"(3) establish, in cooperation with State transportation or highway departments and universities (A) urban technical assistance program centers in States with 2 or more urbanized areas of 50,000 to 1,000,000 population, and (B) rural technical assistance program centers.

Not less than 2 centers under paragraph (3) shall be designated to provide transportation assistance that may include, but is not necessarily limited to, a 'circuit-rider' program, providing training on intergovernmental transportation planning and project selection, and tourism recreational travel to American Indian tribal governments.

"(c) FUNDS.—The funds required to carry out the provisions of this section shall be taken out of administrative funds deducted under section 104(a). The sum of $6,000,000 per fiscal year for each of the fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 shall be set aside from such administrative funds for the purpose of providing technical and financial support for these centers, including up to 100 percent for services provided to American Indian tribal governments.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of such title is amended by adding at the end the following new item:

"326. Education and training program.".

(c) USE OF BUREAU OF INDIAN AFFAIRS' ADMINISTRATIVE FUNDS.—Section 204(b) of such title is amended by adding at the end the following new sentence: "The Secretary of Interior may reserve funds from the Bureau of Indian Affairs' administrative funds associated with the Indian reservation roads program to finance the Indian technical centers authorized under section 326.".

SEC. 6005. APPLIED RESEARCH AND TECHNOLOGY PROGRAM; SEISMIC RESEARCH PROGRAM.

(a) IN GENERAL.—Section 307 of title 23, United States Code, is amended by redesignating subsections (e) and (f) as subsections (g) and (h), respectively, and by inserting after subsection (d) the following new subsections:

"(e) APPLIED RESEARCH AND TECHNOLOGY PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish and implement in accordance with this subsection an applied research and technology program for the purpose of accelerating testing, evaluation, and implementation of technologies which are designed to improve the durability, efficiency, environmental impact, productivity, and safety of highway, transit, and intermodal transportation systems.

"(2) GUIDELINES.—Not later than 18 months after the date of the enactment of this subsection, the Secretary shall issue guidelines to carry out this subsection. Such guidelines shall include:

"(A) TECHNOLOGIES.—Guidelines on the selection of both foreign and domestic technologies to be tested.

"(B) TEST LOCATIONS.—Guidelines on the selection of locations at which tests will be conducted. Such guidelines shall ensure that testing is conducted in a range of climatic, traffic, geographic, and environmental conditions, as appropriate for the technology being tested.

"(C) DATA.—Guidelines for the scientific collection, evaluation, and dissemination of appropriate test data.

"(3) TECHNOLOGIES.—Technologies which may be tested under this subsection include, but are not limited to—

"(A) accelerated construction materials and procedures;

"(B) environmentally beneficial materials and procedures;

"(C) materials and techniques which provide enhanced serviceability and longevity under adverse climactic, environmental, and load effects;

"(D) technologies which increase the efficiency and productivity of vehicular travel; and

"(E) technologies and techniques which enhance the safety and accessibility of vehicular transportation systems.

"(4) HEATED BRIDGE TECHNOLOGIES.—

"(A) PROJECTS.—As part of the program under this subsection, the Secretary shall carry out projects to assess the state of technology with respect to heating the decks of bridges and the feasibility of, and costs and benefits associated with, heating the decks of bridges. Such projects shall be carried out by installing heating equipment on the decks of bridges which are being replaced or rehabilitated under section 144 of this title.

"(B) MINIMUM NUMBER OF BRIDGES.—The number of bridges for which heating equipment is installed under this subsection in a fiscal year shall not be less than 10 bridges.

New Jersey.

"(5) ELASTOMER MODIFIED ASPHALT.—As part of the program under this subsection, the Secretary shall carry out a project in the State of New Jersey to demonstrate the environmental and safety benefits of elastomer modified asphalt.

"(6) HIGH PERFORMANCE BLENDED HYDRAULIC CEMENT.—As part of the program under this subsection, the Secretary shall carry out a project in the State of Missouri to demonstrate the durability and construction efficiency of high performance blended hydraulic cement. Missouri.

"(7) THIN BONDED OVERLAY AND SURFACE LAMINATION OF PAVEMENT.—As part of the program under this subsection, the Secretary shall carry out projects to assess the state of technology with respect to thin bonded overlay (including inorganic bonding systems) and surface lamination of pavement, and to assess the feasibility of, and costs and benefits associated with, the repair, rehabilitation, and upgrading of highways and bridges with overlay. Such projects shall be carried out so as to minimize overlay thickness, minimize initial laydown costs, minimize time out of service, and maximize lifecycle durability.

"(8) ALL WEATHER PAVEMENT MARKINGS.—As part of the program under this subsection, the Secretary shall carry out a program to demonstrate the safety and durability of all weather pavement markings.

"(9) TESTING OF HIGHWAY TECHNOLOGIES.—Projects carried out under this subsection to test technologies related to highways shall be carried out on highways on the Federal-aid system.

"(10) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States and localities in carrying out projects under this subsection.

"(11) ANNUAL REPORT.—Not later than 1 year after the date of the enactment of this subsection, and annually thereafter, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the progress and research findings of the program carried out under this subsection.

"(12) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall not exceed 80 percent.

"(13) FUNDING.—The Secretary shall expend from administrative and research funds deducted under section 104(a) of this title and funds made available under section 26(a)(1) of the Federal Transit Act, "$35,000,000 for fiscal year 1992 and $41,000,000 per fiscal year for each of fiscal years 1993, 1994, 1995, 1996, and 1997 to carry out this subsection. Of such amounts, in each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, the Secretary shall expend not less than $4,000,000 per fiscal year to carry out projects related to heated bridge technologies under paragraph (4), not less than $2,500,000 per fiscal year to carry out projects related to thin bonded overlay and surface lamination of pavements under paragraph (7), and not less than $2,000,000 per fiscal year to carry out projects related to all weather pavement markings under paragraph (8). Amounts made available under this subsection shall remain available until expended and shall not be subject to any obligation limitation.

"(f) SEISMIC RESEARCH PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a program to study the vulnerability of highways, tunnels, and bridges on the Federal-aid system to earthquakes and develop

and implement cost-effective methods of retrofitting such highways, tunnels, and bridges to reduce such vulnerability.

New York.

"(2) COOPERATION WITH NATIONAL CENTER FOR EARTHQUAKE ENGINEERING RESEARCH.—The Secretary shall conduct the program under this section in cooperation with the National Center for Earthquake Engineering Research at the University of Buffalo.

"(3) COOPERATION WITH AGENCIES PARTICIPATING IN NATIONAL HAZARDS REDUCTION PROGRAM.—The Secretary shall further conduct the program under this section in consultation and cooperation with Federal departments and agencies participating in the National Hazards Reduction Program established by section 5 of the Earthquake Hazards Reduction Act of 1977 and shall take such actions as may be necessary to ensure that the program under this subsection is consistent with—

"(A) planning and coordination activities of the Federal Emergency Management Agency under section 5(b)(1) of such Act; and

"(B) the plan developed by the Director of the Federal Emergency Management Agency under section 8(b) of such Act.

"(4) FUNDING.—Of amounts deducted under section 104(a) of this title, the Secretary shall expend not more than $2,000,000 per fiscal year in each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 to carry out this subsection.

"(5) REPORT.—Not later than 2 years after the date of the enactment of this section, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the progress and research findings of the program carried out under this section.".

(b) HIGHWAY AND BRIDGE CONDITIONS AND PERFORMANCE REPORT.—Section 307(h) of title 23, United States Code, as redesignated by subsection (a), is amended by adding at the end the following new sentence: "The biennial reports required under this subsection shall provide the means, including all necessary information, to relate and compare the conditions and service measures used in different years when such measures are changed.".

SEC. 6006. BUREAU OF TRANSPORTATION STATISTICS.

Chapter I of title 49, United States Code, is amended by adding at the end the following new section:

"§ 111. Bureau of Transportation Statistics

"(a) ESTABLISHMENT.—There is established in the Department of Transportation a Bureau of Transportation Statistics.

"(b) DIRECTOR.—

"(1) APPOINTMENT.—The Bureau shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) QUALIFICATIONS.—The Director shall be appointed from among individuals who are qualified to serve as the Director by virtue of their training and experience in the compilation and analysis of transportation statistics.

"(3) REPORTING.—The Director shall report directly to the Secretary.

"(4) TERM.—The term of the Director shall be 4 years. The term of the first Director to be appointed shall begin on the 180th day after the date of the enactment of this section.

"(c) RESPONSIBILITIES.—The Director of the Bureau shall be responsible for carrying out the following duties:

"(1) COMPILING TRANSPORTATION STATISTICS.—Compiling, analyzing, and publishing a comprehensive set of transportation statistics to provide timely summaries and totals (including industrywide aggregates and multiyear averages) of transportation-related information. Such statistics shall be suitable for conducting cost-benefit studies (including comparisons among individual transportation modes and intermodal transport systems) and shall include information on—

"(A) productivity in various parts of the transportation sector;

"(B) traffic flows;

"(C) travel times;

"(D) vehicle weights;

"(E) variables influencing traveling behavior, including choice of transportation mode;

"(F) travel costs of intracity commuting and intercity trips;

"(G) availability of mass transit and the number of passengers served by each mass transit authority;

"(H) frequency of vehicle and transportation facility repairs and other interruptions of transportation service;

"(I) accidents;

"(J) collateral damage to the human and natural environment; and

"(K) the condition of the transportation system.

"(2) IMPLEMENTING LONG-TERM DATA COLLECTION PROGRAM.—Establishing and implementing, in cooperation with the modal administrators, the States, and other Federal officials a comprehensive, long-term program for the collection and analysis of data relating to the performance of the national transportation system. Such program shall—

"(A) be coordinated with efforts to develop performance indicators for the national transportation system undertaken pursuant to section 307(b)(3) of title 23, United States Code;

"(B) ensure that data is collected under this subsection in a manner which will maximize the ability to compare data from different regions and for different time periods; and

"(C) ensure that data collected under this subsection is controlled for accuracy and disseminated to the States and other interested parties.

"(3) ISSUING GUIDELINES.—Issuing guidelines for the collection of information by the Department of Transportation required for statistics to be compiled under paragraph (1) in order to ensure that such information is accurate, reliable, relevant, and in a form that permits systematic analysis.

"(4) COORDINATING COLLECTION OF INFORMATION.—Coordinating the collection of information by the Department of Transportation required for statistics to be compiled under paragraph (1) with related information-gathering activities conducted by other Federal departments and agencies and collecting appropriate data not elsewhere gathered.

"(5) MAKING STATISTICS ACCESSIBLE.—Making the statistics published under this subsection readily accessible.

"(6) IDENTIFYING INFORMATION NEEDS.—Identifying information that is needed under paragraph (1) but which is not being collected, reviewing such needs at least annually with the Advisory Council on Transportation Statistics, and making recommendations to appropriate Department of Transportation research officials concerning extramural and intramural research programs to provide such information.

"(d) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed—

"(1) to authorize the Bureau to require any other department or agency to collect data; or

"(2) to reduce the authority of any other officer of the Department of Transportation to collect and disseminate data independently.

"(e) PROHIBITION ON CERTAIN DISCLOSURES.—Information compiled by the Bureau shall not be disclosed publicly in a manner that would reveal the personal identity of any individual, consistent with the Privacy Act of 1974 (5 U.S.C. 552a), or to reveal trade secrets or allow commercial or financial information provided by any person to be identified with such person.

"(f) TRANSPORTATION STATISTICS ANNUAL REPORT.—On or before January 1, 1994, and annually thereafter, the Director shall transmit to the President and Congress a Transportation Statistics Annual Report which shall include information on items referred to in subsection (c)(1), documentation of methods used to obtain and ensure the quality of the statistics presented in the report, and recommendations for improving transportation statistical information.

"(g) PERFORMANCE OF FUNCTIONS OF DIRECTOR PENDING CONFIRMATION.—An individual who, on the date of the enactment of this section, is performing any function required by this section to be performed by the Director may continue to perform such function until such function is undertaken by the Director.".

(b) FUNDING.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) only for carrying out the amendment made by subsection (a) $5,000,000 for fiscal year 1992, $10,000,000 for fiscal year 1993, $15,000,000 per fiscal year for each of fiscal years 1994 and 1995, $20,000,000 for fiscal year 1996, and $25,000,000 for fiscal year 1997. Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by adding at the end the following new items:

"Sec. 110. Saint Lawrence Seaway Development Corporation.
"Sec. 111. Bureau of Transportation Statistics.".

(d) AMENDMENT TO TITLE 5, U.S.C.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"Director, Bureau of Transportation Statistics.".

49 USC 111 note.

SEC. 6007. ADVISORY COUNCIL ON TRANSPORTATION STATISTICS.

(a) ESTABLISHMENT.—The Director of the Bureau of Transportation Statistics shall establish an Advisory Council on Transportation Statistics.

(b) FUNCTION.—It shall be the function of the advisory council established under this section to advise the Director of the Bureau of Transportation Statistics on transportation statistics and analyses, including whether or not the statistics and analysis disseminated by the Bureau of Transportation Statistics are of high quality and are based upon the best available objective information.

(c) MEMBERSHIP.—The advisory council established under this section shall be composed of not more than 6 members appointed by the Director who are not officers or employees of the United States and who (except for 1 member who shall have expertise in economics and 1 member who shall have expertise in statistics) have expertise in transportation statistics and analysis.

(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall apply to the advisory council established under this section, except that section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee established under this section.

SEC. 6008. DOT DATA NEEDS.

49 USC 111 note.
Contracts.

(a) STUDY.—Not later than 1 year after the date of the establishment of the Bureau of Transportation Statistics, the Secretary shall enter into an agreement with the National Academy of Sciences to conduct a study on the adequacy of data collection procedures and capabilities of the Department of Transportation.

(b) CONSULTATION.—The Secretary shall enter into the agreement under subsection (a) in consultation with the Director of the Bureau of Transportation Statistics.

(c) CONTENTS.—The study under subsection (a) shall include an evaluation of the Department of Transportation's data collection resources, needs, and requirements and an assessment and evaluation of the systems, capabilities, and procedures established by the Department to meet such needs and requirements, including the following:

(1) Data collection procedures and capabilities.

(2) Data analysis procedures and capabilities.

(3) Ability of data bases to integrate with one another.

(4) Computer hardware and software capabilities.

(5) Information management systems, including the ability of information management systems to integrate with one another.

(6) Availability and training of the personnel of the Department.

(7) Budgetary needs and resources of the Department for data collection.

(d) REPORT.—Not later than 18 months after the date of the agreement under subsection (a), the National Academy of Sciences shall transmit to Congress a report on the results of the study under this section, including recommendations for improving the Department of Transportation's data collection systems, capabilities, procedures, and analytical hardware and software and recommendations for improving the Department's management information systems.

SEC. 6009. SURFACE TRANSPORTATION RESEARCH AND DEVELOPMENT PLANNING.

23 USC 307 note.

(a) FINDINGS.—Congress finds that—

(1) despite an annual expenditure in excess of $10,000,000,000 on surface transportation and its infrastructure, the Federal Government has not developed a clear vision of—

(A) how the surface transportation systems of the 21st century will differ from the present;

(B) how they will interface with each other and with other forms of transportation;

(C) how such systems will adjust to changing American population patterns and lifestyles; and

(D) the role of federally funded research and development in ensuring that appropriate transportation systems are developed and implemented;

(2) the population of the United States is projected to increase by over 30,000,000 people within the next 20 years, mostly in existing major metropolitan areas, which will result in increased traffic congestion within and between urban areas, more accidents, loss of productive time, and increased cost of transportation unless new technologies are developed to improve public transportation within cities and to move people and goods between cities;

(3) 18,000,000 crashes, 4,000,000 injuries, and 45,000 fatalities each year on the Nation's highways are intolerable and substantial research is required in order to develop safer technologies in their most useful and economic forms;

(4) current research and development funding for surface transportation is insufficient to provide the United States with the technologies essential to providing its own advanced transportation systems in the future and, as a result, the United States is becoming increasingly dependent on foreign surface transportation technologies and equipment to meet its expanding surface transportation needs;

(5) a more active, focused surface transportation research and development program involving cooperation among the Federal Government, United States based industry, and United States universities should be organized on a priority basis;

(6) intelligent vehicle highway systems represent the best near-term technology for improving surface transportation for public benefit by providing equipment which can improve traffic flow and provide for enhanced safety;

(7) research and development programs related to surface transportation are fragmented and dispersed throughout government and need to be strengthened and incorporated in an integrated framework within which a consensus on the goals of a national surface transportation research and development program must be developed;

(8) the inability of government agencies to cooperate effectively, the difficulty of obtaining public support for new systems and rights-of-way, and the high cost of capital financing discourage private firms from investing in the development of new transportation equipment and systems; therefore, the Federal Government should sponsor and coordinate research and development of new technologies to provide safer, more convenient, and affordable transportation systems for use in the future; and

(9) an effective high technology applied research and development program should be implemented quickly by strengthening the Department of Transportation research and development

staff and by contracting with private industry for specific development projects.

(b) SURFACE TRANSPORTATION RESEARCH AND DEVELOPMENT PLAN.—

(1) DEVELOPMENT.—The Secretary shall develop an integrated national surface transportation research and development plan (hereinafter in this subsection referred to as the "plan").

(2) FOCUS.—The plan shall focus on surface transportation systems needed for urban, suburban, and rural areas in the next decade.

(3) CONTENTS.—The plan shall include the following:

(A) Details of the Department's surface transportation research and development programs, including appropriate funding levels and a schedule with milestones, preliminary cost estimates, appropriate work scopes, personnel requirements, and estimated costs and goals for the next 3 years for each area of research and development.

(B) A 10-year projection of long-term programs in surface transportation research and development and recommendations for the appropriate source or mechanism for surface transportation research and development funding, taking into account recommendations of the Research and Development Coordinating Council of the Department of Transportation and the plan of the National Council on Surface Transportation Research.

(C) Recommendations on changes needed to assure that Federal, State, and local contracting procedures encourage the adoption of advanced technologies developed as a consequence of the research programs in this Act.

(4) OBJECTIVES.—The plan shall provide for the following:

(A) The development, within the shortest period of time possible, of a range of technologies needed to produce convenient, safe, and affordable modes of surface transportation to be available for public use beginning in the mid-1990's.

(B) Maintenance of a long-term advanced research and development program to provide for next generation surface transportation systems.

(5) COOPERATION WITH INDUSTRY.—A primary component of the plan shall be cooperation with industry in carrying out this part and strengthening the manufacturing capabilities of United States firms in order to produce products for surface transportation systems.

(6) CONFORMANCE WITH PLAN.—All surface transportation research and development within the Department of Transportation shall be included in the plan and shall be evaluated in accordance with the plan.

(7) COORDINATION.—In developing the plan and carrying out this part, the Secretary shall consult with and, where appropriate, use the expertise of other Federal agencies and their laboratories.

(8) TRANSMITTAL.—On or before January 15, 1993, and annually thereafter, the Secretary shall transmit the plan to Congress, together with the Secretary's comments and recommendations. The Secretary shall review and update the plan before each transmittal under this paragraph.

Reports.

(9) RECOMMENDATIONS FOR ALTERNATIVES.—In the event a different technology or alternative program can be identified that would accomplish the same or better results than those described in this part, the Secretary may make recommendations for an alternative, and shall promptly report such alternative recommendations to Congress.

23 USC 307 note.

SEC. 6010. NATIONAL COUNCIL ON SURFACE TRANSPORTATION RESEARCH.

(a) ESTABLISHMENT.—There is established a National Council on Surface Transportation Research (hereinafter in this section referred to as the "Council").

(b) FUNCTION.—The Council shall make a complete investigation and study of current surface transportation research and technology developments in the United States and internationally. The Council shall identify gaps and duplication in current surface transportation research efforts, determine research and development areas which may increase efficiency, productivity, safety, and durability in the Nation's surface transportation systems, and propose a national surface transportation research and development plan for immediate implementation.

(c) SPECIFIC MATTERS TO BE ADDRESSED.—The Council shall—

(1) survey current surface transportation public and private research efforts in the United States and internationally;

(2) examine factors which lead to fragmentation of surface transportation research efforts and determine how increased coordination in such efforts may be achieved;

(3) compare the role of the Federal Government with the role of foreign governments in promoting transportation research and evaluate the appropriateness of United States policy on government-sponsored surface transportation research;

(4) identify barriers to innovation in surface transportation systems;

(5) examine the range of funding arrangements available for surface transportation research and development and the level of resources currently available for such purposes; and

(6) identify surface transportation research areas and opportunities, including opportunities for international cooperation offering potential benefit to the Nation's surface transportation system, assess the relative priority of such research areas and plans, and develop a plan for national surface transportation research and development which includes short-range and long-range objectives.

(d) MEMBERSHIP.—

(1) APPOINTMENT.—The Council shall be composed of 7 members as follows:

(A) Three members appointed by the President.

(B) One member appointed by the Speaker of the House of Representatives.

(C) One member appointed by the minority leader of the House of Representatives.

(D) One member appointed by the majority leader of the Senate.

(E) One member appointed by the minority leader of the Senate.

(2) QUALIFICATIONS.—

(A) IN GENERAL.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals involved in surface transportation research, including representatives of Federal, State, and local governments, other public agencies, colleges and universities, public, private, and nonprofit research organizations, and organizations representing transportation providers, shippers, labor, and the financial community.

(B) INTERNATIONAL ADVISOR.—One of the members appointed by the President pursuant to paragraph (1)(A) shall serve as an international research advisor for the Council.

(3) TERMS.—Members shall be appointed for the life of the Council.

(4) VACANCIES.—A vacancy in the Council shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) CHAIRMAN.—The Chairman of the Council shall be elected by the members.

(e) STAFF.—The Council may appoint and fix the pay of such personnel as it considers appropriate.

(f) STAFF OF FEDERAL AGENCIES.—Upon request of the Council, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Council to assist it in carrying out its duties under this section.

(g) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Council, the Administrator of General Services shall provide to the Council, on a reimbursable basis, the administrative support services necessary for the Council to carry out its responsibilities under this section.

(h) OBTAINING OFFICIAL DATA.—The Council may secure directly from any department or agency of the United States information necessary for it to carry out its duties under this section. Upon request of the Council, the head of that department or agency shall furnish that information to the Council.

(i) REPORT.—Not later than September 30, 1993, the Council shall transmit to Congress a final report on the results of the investigation and study conducted under this section. The report shall include recommendations of the Council, including a proposed national surface transportation research plan for immediate implementation.

(j) TERMINATION.—The Council shall terminate on the 180th day following the date of transmittal of the report under subsection (i). All records and papers of the Council shall thereupon be delivered to the Administrator of General Services for deposit in the National Archives.

SEC. 6011. RESEARCH ADVISORY COMMITTEE. 23 USC 307 note.

(a) ESTABLISHMENT.—Not later than 180 days after the date of transmittal of the report to Congress under section 6010, the Secretary shall establish an independent surface transportation research advisory committee (hereinafter in this section referred to as the "advisory committee").

(b) PURPOSES.—The advisory committee shall provide ongoing advice and recommendations to the Secretary regarding needs, objectives, plans, approaches, content, and accomplishments with respect to short-term and long-term surface transportation research and development. The advisory committee shall also assist in ensuring that such research and development is coordinated with similar research and development being conducted outside of the Department of Transportation.

(c) MEMBERSHIP.—The advisory committee shall be composed of not less than 20 and not more than 30 members appointed by the Secretary from among individuals who are not employees of the Department of Transportation and who are specially qualified to serve on the advisory committee by virtue of their education, training, or experience. A majority of the members of the advisory committee shall be individuals with experience in conducting surface transportation research and development. The Secretary in appointing the members of the advisory committee shall ensure that representatives of Federal, State, and local governments, other public agencies, colleges and universities, public, private, and nonprofit research organizations, and organizations representing transportation providers, shippers, labor, and the financial community are represented on an equitable basis.

(d) CHAIRMAN.—The chairman of the advisory committee shall be designated by the Secretary.

(e) PAY AND EXPENSES.—Members of the advisory committee shall serve without pay, except that the Secretary may allow any member, while engaged in the business of the advisory committee or a subordinate committee, travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

Establishment.

(f) SUBORDINATE COMMITTEES.—The Secretary shall establish a subordinate committee to the advisory committee to provide advice on advanced highway vehicle technology research and development, and may establish other subordinate committees to provide advice on specific areas of surface transportation research and development. Such subordinate committees shall be subject to subsections (e), (g), and (i) of this section.

(g) ASSISTANCE OF SECRETARY.—Upon request of the advisory committee, the Secretary shall provide such information, administrative services, support staff, and supplies as the Secretary determines to be necessary for the advisory committee to carry out its functions.

(h) REPORTS.—The advisory committee shall, within 1 year after the date of establishment of the advisory committee, and annually thereafter, submit to the Congress a report summarizing its activities under this section.

(i) TERMINATION.—Section 14 of the Federal Advisory Committee Act shall not apply to the advisory committee established under this section.

23 USC 101 note.

SEC. 6012. COMMEMORATION OF DWIGHT D. EISENHOWER NATIONAL SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS.

(a) STUDY.—The Secretary shall conduct a study to determine an appropriate symbol or emblem to be placed on highway signs referring to the Interstate System to commemorate the vision of President Dwight D. Eisenhower in creating the Dwight D. Eisenhower National System of Interstate and Defense Highways.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study under this section.

SEC. 6013. STATE LEVEL OF EFFORT.

(a) STUDY.—Not later than 3 months after the date of the enactment of this Act, the Secretary and the Director of the Bureau of Transportation Statistics shall begin a comprehensive study of the most appropriate and accurate methods of calculating State level of effort in funding surface transportation programs.

(b) CONTENTS.—The study under subsection (a) shall include collection of data relating to State and local revenues collected and spent on surface transportation programs. Such revenues include income from fuel taxes, toll revenues (including bridge, tunnel, and ferry tolls), sales taxes, general fund appropriations, property taxes, bonds, administrative fees, taxes on commercial vehicles, and such other State and local revenue sources as the Director of the Bureau considers appropriate.

(c) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary and the Director of the Bureau shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the study under this section, including recommendations on the most appropriate measure of State level of effort in funding surface transportation programs and comprehensive data, by State, on revenue sources and amounts collected by States and local governments and devoted to surface transportation programs.

SEC. 6014. EVALUATION OF STATE PROCUREMENT PRACTICES. 23 USC 112 note.

(a) STUDY.—The Secretary shall conduct a study to evaluate whether or not current procurement practices of State departments and agencies, including statistical acceptance procedures, are adequate to ensure that highway and transit systems are designed, constructed, and maintained so as to achieve a high quality for such systems at the lowest overall cost.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study conducted under this section, together with an assessment of the need for establishing a national policy on transportation quality assurance and recommendations for appropriate legislative and administrative actions.

SEC. 6015. BORDER CROSSINGS. Canada. Mexico. 49 USC 301 note.

(a) IDENTIFICATION.—The Secretary, in cooperation with other appropriate Federal agencies, shall identify existing and emerging trade corridors and transportation subsystems that facilitate trade between the United States, Canada, and Mexico.

(b) PRIORITIES AND RECOMMENDATIONS.—The Secretary shall investigate and develop priorities and recommendations for rail, highway, water, and air freight centers and all highway border crossings for States adjoining Canada and Mexico, including the Gulf of Mexico States and other States whose transportation subsystems affect the trade corridors. The recommendations shall provide for improvement and integration of transportation corridor subsystems,

methods for achieving the optimum yield from such subsystems, methods for increasing productivity, methods for increasing the use of advanced technologies, and methods to encourage the use of innovative marketing techniques, such as just-in-time deliveries.

(c) MINIMUM ELEMENTS.—The highway border crossing assessment under this section shall at a minimum—

(1) determine whether or not the border crossings are in compliance with current Federal highway regulations and adequately designed for future growth and expansion;

(2) assess their ability to accommodate increased commerce due to the United States-Canada Free Trade Agreement and increased trade between the United States and Mexico; and

(3) assess their ability to accommodate increasing tourism-related traffic between the United States, Canada, and Mexico.

The review shall specifically address issues related to the alignment of United States and adjoining Canadian and Mexican highways at the border crossings, the development of bicycle paths and pedestrian walkways, and potential energy savings to be realized by decreasing truck delays at the border crossings and related parking improvements.

(d) CONSULTATION.—In carrying out this section, the Secretary shall consult with appropriate Governors and representatives of the Republic of Mexico and Canada.

(e) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall report to Congress and border State Governors on transportation infrastructure needs, associated costs, and economic impacts identified and propose an agenda to develop systemwide integration of services for national benefits.

23 USC 307 note.

SEC. 6016. FUNDAMENTAL PROPERTIES OF ASPHALTS AND MODIFIED ASPHALTS.

(a) STUDIES.—The Administrator of the Federal Highway Administration (hereinafter in this section referred to as the "Administrator") shall conduct studies of the fundamental chemical property and physical property of petroleum asphalts and modified asphalts used in highway construction in the United States. Such studies shall emphasize predicting pavement performance from the fundamental and rapidly measurable properties of asphalts and modified asphalts.

Wyoming.

(b) CONTRACTS.—To carry out the studies under subsection (a), the Administrator shall enter into contracts with the Western Research Institute of the University of Wyoming in order to conduct the necessary technical and analytical research in coordination with existing programs which evaluate actual performance of asphalts and modified asphalts in roadways, including the Strategic Highway Research Program.

(c) ACTIVITIES OF STUDIES.—The studies under subsection (a) shall include the following activities:

(1) Fundamental composition studies.

(2) Fundamental physical and rheological property studies.

(3) Asphalt-aggregate interaction studies.

(4) Coordination of composition studies, physical and rheological property studies, and asphalt-aggregate interaction studies for the purposes of predicting pavement performance, including refinements of Strategic Highway Research Program specifications.

Wyoming.

(d) TEST STRIP.—

(1) IMPLEMENTATION.—The Administrator, in coordination with the Western Research Institute of the University of Wyoming, shall implement a test strip for the purpose of demonstrating and evaluating the unique energy and environmental advantages of using shale oil modified asphalts under extreme climatic conditions.

(2) FUNDING.—For the purposes of construction activities related to this test strip, the Secretary and the Director of the National Park Service shall make up to $1,000,000 available from amounts made available from the authorization for parkroads and parkways.

(3) REPORT TO CONGRESS.—Not later than November 30, 1995, the Administrator shall transmit to Congress as part of a report under subsection (e) the Administrator's findings on activities conducted under this subsection, including an evaluation of the test strip implemented under this subsection and recommendations for legislation to establish a national program to support United States transportation and energy security requirements.

(e) ANNUAL REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, and on or before November 30th of each year beginning thereafter, the Administrator shall transmit to Congress a report of the progress made in implementing this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—The Secretary shall expend from administrative and research funds deducted under section 104(a) of this title at least $3,000,000 for each of fiscal years 1992, 1993, 1994, 1995, and 1996 to carry out subsection (b).

SEC. 6017. RESEARCH AND DEVELOPMENT AUTHORITY OF SECRETARY OF TRANSPORTATION.

Section 301(6) of title 49, United States Code, as redesignated by section 502(a) of this Act, is amended by inserting ", and including basic highway vehicle science" after "to aircraft noise".

SEC. 6018. PURPOSES OF DEPARTMENT OF TRANSPORTATION.

Section 101(b)(4) of title 49, United States Code, is amended by inserting ", through research and development or otherwise" after "advances in transportation".

SEC. 6019. ADVANCED AUTOMOTIVE CONFERENCE AND AWARD.

The Stevenson-Wydler Technology Innovation Act of 1980 is amended by inserting after section 17 the following new sections, and by redesignating subsequent sections and all references thereto accordingly: 15 USC 3712-3715.

"SEC. 18. CONFERENCE ON ADVANCED AUTOMOTIVE TECHNOLOGIES. 15 USC 3711b.

"Not later than 180 days after the date of the enactment of this section, the Secretary of Commerce, through the Under Secretary of Commerce for Technology, in consultation with other appropriate officials, shall convene a conference of domestic motor vehicle manufacturers, parts suppliers, Federal laboratories, and motor vehicle users to explore ways in which cooperatively they can improve the competitiveness of the United States motor vehicle industry by developing new technologies which will enhance the safety and energy savings, and lessen the environmental impact of domestic motor vehicles, and the results of such conference shall be published and then submitted to the President and to the Commit-

tees on Science, Space, and Technology and Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

15 USC 3711c.

"SEC. 19. ADVANCED MOTOR VEHICLE RESEARCH AWARD.

"(a) ESTABLISHMENT.—There is established a National Award for the Advancement of Motor Vehicle Research and Development. The award shall consist of a medal, and a cash prize if funding is available for the prize under subsection (c). The medal shall be of such design and materials and bear inscriptions as is determined by the Secretary of Transportation.

"(b) MAKING AND PRESENTING AWARD.—The Secretary of Transportation shall periodically make and present the award to domestic motor vehicle manufacturers, suppliers, or Federal laboratory personnel who, in the opinion of the Secretary of Transportation, have substantially improved domestic motor vehicle research and development in safety, energy savings, or environmental impact. No person may receive the award more than once every 5 years.

"(c) FUNDING FOR AWARD.—The Secretary of Transportation may seek and accept gifts of money from private sources for the purpose of making cash prize awards under this section. Such money may be used only for that purpose, and only such money may be used for that purpose.".

49 USC 301 note.

SEC. 6020. UNDERGROUND PIPELINES.

(a) STUDY.—The Secretary shall conduct a study to evaluate the feasibility, costs, and benefits of constructing and operating pneumatic capsule pipelines for underground movement of commodities other than hazardous liquids and gas.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study conducted under this section.

SEC. 6021. BUS TESTING.

(a) DEFINITION OF NEW BUS MODEL.—Section 12(h) of the Federal Transit Act (49 U.S.C. 1608(h)) is amended by inserting "(including any model using alternative fuels)" after "means a bus model".

(b) DUTIES OF BUS TESTING FACILITY.—Section 317(b)(1) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (49 U.S.C. App. 1608 note) is amended—

(1) by inserting "(including braking performance)" after "performance"; and

(2) by inserting "emissions," after "fuel economy,".

(c) FUNDING.—The first sentence of section 317(b)(5) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by inserting before the period at the end the following: ", for expansion of such facility $1,500,000 for fiscal year 1992, and for establishment of a revolving fund under paragraph (6) $2,500,000 for fiscal year 1992".

(d) REVOLVING LOAN FUND.—Section 317(b) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 is amended by adding at the end the following new paragraph:

"(6) REVOLVING LOAN FUND.—The Secretary shall establish a bus testing revolving loan fund with amounts authorized for such purpose under paragraph (5). The Secretary shall make available as repayable advances amounts from the fund to the person described in paragraph (3) for operating and maintaining the facility.".

SEC. 6022. NATIONAL TRANSIT INSTITUTE.

The Federal Transit Act (49 U.S.C. App. 1601-1621) is amended by adding after section 28 the following new section:

"SEC. 29. NATIONAL TRANSIT INSTITUTE. 49 USC app. 1625.

"(a) ESTABLISHMENT.—The Secretary shall make grants to Rutgers University to establish a national transit institute. The institute shall develop and administer, in cooperation with the Federal Transit Administration, State transportation departments, public transit agencies, and national and international entities, training programs of instruction for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Federal-aid transit work. Such programs may include courses in recent developments, techniques, and procedures relating to transit planning, management, environmental factors, acquisition and joint use of rights-of-way, engineering, procurement strategies for transit systems, turn-key approaches to implementing transit systems, new technologies, emission reduction technologies, means of making transit accessible to individuals with disabilities, construction, maintenance, contract administration, and inspection. The Secretary shall delegate to the institute the authority vested in the Secretary for the development and conduct of educational and training programs relating to transit.

"(b) FUNDING.—Not to exceed one-half of 1 percent of all funds made available for a fiscal year beginning after September 30, 1991, to a State or public transit agency in the State for carrying out sections 3 and 9 of the Federal Transit Act shall be available for expenditure by the State and public transit agencies in the State, subject to approval by the Secretary, for payment of not to exceed 80 percent of the cost of tuition and direct educational expenses in connection with the education and training of State and local transportation department employees as provided in this section.

"(c) PROVISION OF TRAINING.—Education and training of Federal, State, and local transportation employees authorized by this section shall be provided—

"(1) by the Secretary at no cost to the States and local governments for those subject areas which are a Federal program responsibility; or

"(2) in any case where such education and training are to be paid for under subsection (b) of this section, by the State, subject to the approval of the Secretary, through grants and contracts with public and private agencies, other institutions, individuals, and the institute.

"(d) FUNDING.—The Secretary shall make available in equal amounts from funds provided under section 21(c)(3) and 21(c)(4) $3,000,000 per fiscal year for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 for carrying out this section. Notwithstanding any other provision of law, approval by the Secretary of a grant with funds made available under this subsection shall be deemed a

contractual obligation of the United States for payment of the Federal share of the cost of the project.".

Grants.

SEC. 6023. UNIVERSITY TRANSPORTATION CENTERS.

(a) ADDITIONAL RESPONSIBILITY.—Section 11(b)(2) of the Federal Transit Act (49 U.S.C. App. 1607c(b)(2)) is amended by inserting "transportation safety and" after "training concerning".

(b) ESTABLISHMENT OF NEW CENTERS; PROGRAM COORDINATION.—Section 11(b) of such Act (49 U.S.C. App. 1607c(b)) is amended by striking paragraphs (7) and (8), by redesignating paragraphs (9) and (10) as paragraphs (14) and (15), respectively, and by inserting after paragraph (6) the following new paragraphs:

Minorities.
Women.

"(7) NATIONAL CENTER.—To accelerate the involvement and participation of minority individuals and women in transportation-related professions, particularly in the science, technology, and engineering disciplines, the Secretary shall make grants under this section to Morgan State University to establish a national center for transportation management, research, and development. Such center shall give special attention to the design, development, and implementation of research, training, and technology transfer activities to increase the number of highly skilled minority individuals and women entering the transportation workforce.

New Jersey.

"(8) CENTER FOR TRANSPORTATION AND INDUSTRIAL PRODUCTIVITY.—

"(A) IN GENERAL.—The Secretary shall make grants under this section to the New Jersey Institute of Technology to establish and operate a center for transportation and industrial productivity. Such center shall conduct research and development activities which focus on methods to increase surface transportation capacity, reduce congestion, and reduce costs for transportation system users and providers through the use of transportation management systems.

"(B) JAMES AND MARLENE HOWARD TRANSPORTATION INFORMATION CENTER.—

"(i) GRANT.—The Secretary shall make a grant to Monmouth College, West Long Branch, New Jersey, for modification and reconstruction of Building Number 500 at Monmouth College.

"(ii) ASSURANCES.—Before making a grant under clause (i), the Secretary shall receive assurances from Monmouth College that—

"(I) the building referred to in clause (i) will be known and designated as the 'James and Marlene Howard Transportation Information Center'; and

"(II) transportation-related instruction and research in the fields of computer science, electronic engineering, mathematics, and software engineering conducted at the building referred to in clause (i) will be coordinated with the Center for Transportation and Industrial Productivity at the New Jersey Institute of Technology.

"(iii) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $2,242,000

in fiscal year 1992 for making the grant under clause (i).

"(iv) APPLICABILITY OF TITLE 23.—Funds authorized by clause (iii) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of activities conducted with the grant under clause (i) shall be 80 percent and such funds shall remain available until expended. Funds authorized by clause (iii) shall not be subject to any obligation limitation.

"(9) NATIONAL RURAL TRANSPORTATION STUDY CENTER.—The Secretary shall make grants under this section to the University of Arkansas to establish a national rural transportation center. Such center shall conduct research, training, and technology transfer activities in the development, management, and operation of intermodal transportation systems in rural areas. Arkansas.

"(10) NATIONAL CENTER FOR ADVANCED TRANSPORTATION TECHNOLOGY.—

"(A) IN GENERAL.—The Secretary shall make grants under paragraph (10) to the University of Idaho to establish a National Center for Advanced Transportation technology. Such center shall be established and operated in partnership with private industry and shall conduct industry driven research and development activities which focus on transportation-related manufacturing and engineering processes, materials, and equipment. Idaho.

"(B) GRANTS.—The Secretary shall make grants to the University of Idaho, Moscow, Idaho, for planning, design, and construction of a building in which the research and development activities of the National Center for Advanced Transportation Technology may be conducted. Idaho.

"(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $2,500,000 for fiscal year 1992, $3,000,000 for fiscal year 1993, and $2,500,000 for fiscal year 1994 for making the grants under subparagraph (B).

"(D) APPLICABILITY OF TITLE 23.—Funds authorized by subparagraph (C) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of activities conducted with the grant under subparagraph (B) shall be 80 percent and such funds shall remain available until expended. Funds authorized by subparagraph (B) shall not be subject to any obligation limitation.

"(E) APPLICABILITY OF GRANT REQUIREMENTS.—Any grant entered into under this paragraph shall not be subject to the requirements of subsection (b) of this section.

"(11) PROGRAM COORDINATION.—

"(A) IN GENERAL.—The Secretary shall provide for the coordination of research, education, training, and technology transfer activities carried out by grant recipients under this subsection, the dissemination of the results of such research, and the establishment and operation of a clearinghouse between such centers and the transportation

industry. The Secretary shall review and evaluate programs carried out by such grant recipients at least annually.

"(B) FUNDING.—Not to exceed 1 percent of the funds made available from Federal sources to carry out this subsection may be used by the Secretary to carry out this paragraph.

"(12) OBLIGATION CEILING.—Amounts authorized out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection shall be subject to obligation limitations established by section 102 of the Intermodal Surface Transportation Efficiency Act of 1991.

"(13) AUTHORIZATIONS.—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 1992 and $6,000,000 for each of the fiscal years 1993 through 1997. Notwithstanding any other provision of law, approval by the Secretary of a grant under this section shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project.".

Contracts.

Grants.

SEC. 6024. UNIVERSITY RESEARCH INSTITUTES.

Section 11 of the Federal Transit Act (49 U.S.C. App. 1607c) is amended by adding at the end the following new subsection:

"(c) UNIVERSITY RESEARCH INSTITUTES.—

"(1) INSTITUTE FOR NATIONAL SURFACE TRANSPORTATION POLICY STUDIES.—The Secretary shall make grants under this section to San Jose State University to establish and operate an institute for national surface transportation policy studies. Such institute shall—

"(A) include both male and female students of diverse socioeconomic and ethnic backgrounds who are seeking careers in the development and operations of surface transportation programs; and

"(B) conduct research and development activities to analyze ways of improving aspects of the development and operation of the Nation's surface transportation programs.

"(2) INFRASTRUCTURE TECHNOLOGY INSTITUTE.—The Secretary shall make grants under this section to Northwestern University to establish and operate an institute for the study of techniques to evaluate and monitor infrastructure conditions, improve information systems for infrastructure construction and management, and study advanced materials and automated processes for construction and rehabilitation of public works facilities.

North Carolina. Florida.

"(3) URBAN TRANSIT INSTITUTE.—The Secretary shall make grants under this section to North Carolina A. and T. State University through the Institute for Transportation Research and Education and the University of South Florida and a consortium of Florida A and M, Florida State University, and Florida International University to establish and operate an interdisciplinary institute for the study and dissemination of techniques to address the diverse transportation problems of urban areas experiencing significant and rapid growth.

Minnesota.

"(4) INSTITUTE FOR INTELLIGENT VEHICLE-HIGHWAY CONCEPTS.—The Secretary shall make grants under this section to the University of Minnesota, Center for Transportation Studies, to

establish and operate a national institute for intelligent vehicle-highway concepts. Such institute shall conduct research and recommend development activities which focus on methods to increase roadway capacity, enhance safety, and reduce negative environmental effects of transportation facilities through the use of intelligent vehicle-highway systems technologies.

"(5) INSTITUTE FOR TRANSPORTATION RESEARCH AND EDUCATION.—The Secretary shall make grants under this section to the University of North Carolina to conduct research and development and to direct technology transfer and training for State and local transportation agencies to improve the overall surface transportation infrastructure. North Carolina.

"(6) FUNDING.—There is authorized to be appropriated out of the Highway Trust Fund, other than the Mass Transit Account, for each of fiscal years 1992, 1993, 1994, 1995, 1996, and 1997 $250,000 per fiscal year to carry out paragraph (1), $3,000,000 per fiscal year to carry out paragraph (2), $1,000,000 per fiscal year to carry out paragraph (3), $1,000,000 per fiscal year to carry out paragraph (4), and $1,000,000 per fiscal year to carry out paragraph (5).

"(7) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.".

PART B—INTELLIGENT VEHICLE-HIGHWAY SYSTEMS ACT

Intelligent Vehicle-Highway Systems Act of 1991.
23 USC 307 note.

SEC. 6051. SHORT TITLE.

This part may be cited as the "Intelligent Vehicle-Highway Systems Act of 1991".

SEC. 6052. ESTABLISHMENT AND SCOPE OF PROGRAM.

(a) ESTABLISHMENT.—Subject to the provisions of this part, the Secretary shall conduct a program to research, develop, and operationally test intelligent vehicle-highway systems and promote implementation of such systems as a component of the Nation's surface transportation systems.

(b) GOALS.—The goals of the program to be carried out under this part shall include, but not be limited to—

(1) the widespread implementation of intelligent vehicle-highway systems to enhance the capacity, efficiency, and safety of the Federal-aid highway system and to serve as an alternative to additional physical capacity of the Federal-aid highway system;

(2) the enhancement, through more efficient use of the Federal-aid highway system, of the efforts of the several States to attain air quality goals established pursuant to the Clean Air Act;

(3) the enhancement of safe and efficient operation of the Nation's highway systems with a particular emphasis on aspects of systems that will increase safety and identification of aspects of the system that may degrade safety;

(4) the development and promotion of intelligent vehicle-highway systems and an intelligent vehicle-highway systems

industry in the United States, using authority provided under section 307 of title 23, United States Code;

(5) the reduction of societal, economic, and environmental costs associated with traffic congestion;

(6) the enhancement of United States industrial and economic competitiveness and productivity by improving the free flow of people and commerce and by establishing a significant United States presence in an emerging field of technology;

(7) the development of a technology base for intelligent vehicle-highway systems and the establishment of the capability to perform demonstration experiments, using existing national laboratory capabilities where appropriate; and

(8) the facilitation of the transfer of transportation technology from national laboratories to the private sector.

SEC. 6053. GENERAL AUTHORITIES AND REQUIREMENTS.

(a) COOPERATION.—In carrying out the program under this part, the Secretary shall foster use of the program as a key component of the Nation's surface transportation systems and strive to transfer federally owned or patented technology to State and local governments and the United States private sector. As appropriate, in carrying out the program under this part, the Secretary shall consult with the Secretary of Commerce, the Administrator of the Environmental Protection Agency, the Director of the National Science Foundation, and the heads of other interested Federal departments and agencies and shall maximize the involvement of the United States private sector, colleges and universities, and State and local governments in all aspects of the program, including design, conduct (including operations and maintenance), evaluation, and financial or in-kind participation.

(b) STANDARDS.—The Secretary shall develop and implement standards and protocols to promote the widespread use and evaluation of intelligent vehicle-highway systems technology as a component of the Nation's surface transportation systems. To the extent practicable, such standards and protocols shall promote compatibility among intelligent vehicle-highway systems technologies implemented throughout the States. In carrying out this subsection, the Secretary may use the services of such existing standards-setting organizations as the Secretary determines appropriate.

(c) EVALUATION GUIDELINES.—The Secretary shall establish guidelines and requirements for the evaluation of field and related operational tests carried out pursuant to section 6055. Any survey, questionnaire, or interview which the Secretary considers necessary to carry out the evaluation of such tests shall not be subject to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

(d) INFORMATION CLEARINGHOUSE.—

(1) ESTABLISHMENT.—The Secretary shall establish and maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out pursuant to this part and shall make, upon request, such information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

(2) DELEGATION OF AUTHORITY.—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. If the Secretary

delegates such responsibility, the entity to which such responsibility is delegated shall be eligible for Federal assistance under this part.

(e) ADVISORY COMMITTEES.—The Secretary may utilize one or more advisory committees in carrying out this part. Any advisory committee so utilized shall be subject to the Federal Advisory Committee Act. Funding provided for any such committee shall be available from moneys appropriated for advisory committees as specified in relevant appropriations Acts and from funds allocated for research, development, and implementation activities in connection with the intelligent vehicle-highway systems program under this part.

SEC. 6054. STRATEGIC PLAN, IMPLEMENTATION, AND REPORT TO CONGRESS.

(a) STRATEGIC PLAN.—

(1) DEVELOPMENT AND IMPLEMENTATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall develop, submit to Congress, and commence implementation of a plan for the intelligent vehicle-highway systems program.

(2) SCOPE.—The plan shall—

(A) specify the goals, objectives, and milestones of the intelligent vehicle-highway program and how specific projects relate to the goals, objectives, and milestones, including consideration of the 5- 10- and 20-year timeframes for the goals and objectives;

(B) detail the status of and challenges and nontechnical constraints facing the program;

(C) establish a course of action necessary to achieve the program's goals and objectives;

(D) provide for the development of standards and protocols to promote and ensure compatibility in the implementation of intelligent vehicle-highway systems technologies; and

(E) provide for the accelerated use of advanced technology to reduce traffic congestion along heavily populated and traveled corridors.

(b) INTELLIGENT VEHICLE HIGHWAY SYSTEMS.—The Secretary shall develop an automated highway and vehicle prototype from which future fully automated intelligent vehicle-highway systems can be developed. Such development shall include research in human factors to ensure the success of the man-machine relationship. The goal of this program is to have the first fully automated roadway or an automated test track in operation by 1997. This system shall accommodate installation of equipment in new and existing motor vehicles.

(c) IMPLEMENTATION REPORTS.—

(1) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on implementation of the plan developed under subsection (a).

(2) SCOPE OF IMPLEMENTATION REPORTS.—In preparing reports under this subsection, the Secretary shall—

(A) analyze the possible and actual accomplishments of intelligent vehicle-highway systems projects in achieving congestion, safety, environmental, and energy conservation goals and objectives of the program;

(B) specify cost-sharing arrangements made, including the scope and nature of Federal investment, in any research, development, or implementation project under the program;

(C) assess nontechnical problems and constraints identified as a result of each such implementation project; and

(D) include, if appropriate, any recommendations of the Secretary for legislation or modification to the plan developed under subsection (a).

(d) NONTECHNICAL CONSTRAINTS.—

(1) REPORT TO CONGRESS.—In cooperation with the Attorney General and the Secretary of Commerce, the Secretary shall prepare and submit, not later than 2 years after the date of the enactment of this Act, a report to Congress addressing the nontechnical constraints and barriers to implementation of the intelligent vehicle-highway systems program.

(2) SCOPE OF REPORT.—The report shall—

(A) address antitrust, privacy, educational and staffing needs, patent, liability, standards, and other constraints, barriers, or concerns relating to the intelligent vehicle-highway systems program;

(B) recommend legislative and administrative actions necessary to further the program; and

(C) address ways to further promote industry and State and local government involvement in the program.

(3) UPDATE OF REPORT.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall prepare and submit to Congress an update of the report under this subsection.

SEC. 6055. TECHNICAL, PLANNING, AND OPERATIONAL TESTING PROJECT ASSISTANCE.

(a) TECHNICAL ASSISTANCE AND INFORMATION.—The Secretary may provide planning and technical assistance and information to State and local governments seeking to use and evaluate intelligent vehicle-highway systems technologies. In doing so, the Secretary shall assist State and local officials in developing plans for areawide traffic management control centers, necessary laws pertaining to establishment and implementation of such systems, and plans for infrastructure for such systems and in conducting other activities necessary for the intelligent vehicle-highway systems program.

(b) PLANNING GRANTS.—The Secretary may make grants to State and local governments for feasibility and planning studies for development and implementation of intelligent vehicle-highway systems. Such grants shall be made at such time, in such amounts, and subject to such conditions as the Secretary may determine.

(c) ELIGIBILITY OF CERTAIN TRAFFIC MANAGEMENT ENTITIES.—Any interagency traffic and incident management entity, including independent public authorities or agencies, contracted by a State department of transportation for implementation of a traffic management system for a designated corridor is eligible to receive Federal assistance under this part through the State department of transportation.

(d) OPERATIONAL TESTING PROJECTS.—The Secretary may make grants to non-Federal entities, including State and local governments, universities, and other persons, for operational tests relating

to intelligent vehicle-highway systems. In deciding which projects to fund under this subsection, the Secretary shall—

(1) give the highest priority to those projects that—

(A) will contribute to the goals and objectives specified in plan developed under section 6054; and

(B) will minimize the relative percentage of Federal contributions (excluding funds apportioned under section 104 of title 23, United States Code) to total project costs;

(2) seek to fund operational tests that advance the current state of knowledge and, where appropriate, build on successes achieved in previously funded work involving such systems; and

(3) require that operational tests utilizing Federal funds under this part have a written evaluation of the intelligent vehicle-highway systems technologies investigated and of the results of the investigation which is consistent with the guidelines developed pursuant to section 6053(c).

(e) AUTHORITY TO USE FUNDS.—Each State and eligible local entity is authorized to use funds provided under this part for implementation purposes in connection with the intelligent vehicle-highway systems program.

SEC. 6056. APPLICATIONS OF TECHNOLOGY.

(a) IVHS CORRIDORS PROGRAM.—The Secretary shall designate transportation corridors in which application of intelligent vehicle-highway systems will have particular benefit and, through financial and technical assistance under this part, shall assist in the development and implementation of such systems.

(b) PRIORITIES.—In providing funding for corridors under this section, the Secretary shall allocate not less than 50 percent of the funds made available to carry out this section to eligible State or local entities for application of intelligent vehicle-highway systems in not less than 3 but not more than 10 corridors with the following characteristics:

(1) Traffic density (as a measurement of vehicle miles traveled per highway mile) at least 1.5 times the national average for such class of highway.

(2) Severe or extreme nonattainment for ozone under the Clean Air Act, as determined by the Administrator of the Environmental Protection Agency.

(3) A variety of types of transportation facilities, such as highways, bridges, tunnels, and toll and nontoll facilities.

(4) Inability to significantly expand capacity of existing surface transportation facilities.

(5) A significant mix of passenger, transit, and commercial motor carrier traffic.

(6) Complexity of traffic patterns.

(7) Potential contribution to the implementation of the Secretary's plan developed under section 6054.

(c) OTHER CORRIDORS AND AREAS.—After the allocation pursuant to subsection (b), the balance of funds made available to carry out this section shall be allocated to eligible State and local entities for application of intelligent vehicle-highway systems in corridors and areas where the application of such systems and associated technologies will make a potential contribution to the implementation of the Secretary's plan for the intelligent vehicle-highway systems program under section 6054 and demonstrate benefits related to any of the following:

(1) Improved operational efficiency.
(2) Reduced regulatory burden.
(3) Improved commercial productivity.
(4) Improved safety.
(5) Enhanced motorist and traveler performance.

Such corridors and areas may be in both urban and rural areas and may be interstate and intercity corridors. Urban corridors shall have a significant number of the characteristics set forth in subsection (b).

SEC. 6057. COMMERCIAL MOTOR VEHICLE SAFETY TECHNOLOGY.

(a) STUDY.—The Secretary shall conduct a study to evaluate technology which is designed for installation on a commercial motor vehicle to provide the individual operating the vehicle with a warning if a turn, lane change, or other intended movement of the vehicle by the operator will place the vehicle in the path of an adjacent object or vehicle.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report containing findings and recommendations concerning the study conducted under this section.

SEC. 6058. FUNDING.

(a) IVHS CORRIDORS PROGRAM.—There is authorized to be appropriated to the Secretary for carrying out section 6056, out of the Highway Trust Fund (other than the Mass Transit Account), $71,000,000 for fiscal year 1992 and $86,000,000 per fiscal year for each of fiscal years 1993 through 1997. In addition to amounts made available by subsection (b), any amounts authorized by this subsection and not allocated by the Secretary for carrying out section 6056 for fiscal years 1992 and 1993 may be used by the Secretary for carrying out other activities authorized under this part.

(b) OTHER IVHS ACTIVITIES.—There is authorized to be appropriated to the Secretary for carrying out this part (other than section 6056), out of the Highway Trust Fund (other than the Mass Transit Account), $23,000,000 for fiscal year 1992 and $27,000,000 per fiscal year for each of fiscal years 1993 through 1997.

(c) RESERVATION OF FUNDS.—Of the funds made available pursuant to subsection (a), not less than 5 percent shall only be available for innovative, high-risk operational or analytical tests that do not attract substantial non-Federal commitments but are determined by the Secretary as having significant potential to help accomplish long-term goals established by the plan developed pursuant to section 6054.

(d) FEDERAL SHARE PAYABLE.—The Federal share payable on account of activities carried out under this part shall not exceed 80 percent of the cost of such activities. The Secretary may waive application of the preceding sentence for projects undertaken pursuant to subsection (c) of this section. The Secretary shall seek maximum private participation in the funding of such activities.

(e) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any activity under this section shall be determined in accordance with this section and such

funds shall remain available until expended. Such funds shall be subject to the obligation limitation imposed by section 102 of this Act.

SEC. 6059. DEFINITIONS.

For the purposes of this part, the following definitions apply:

(1) IVHS.—The term "intelligent vehicle-highway systems" means the development or application of electronics, communications, or information processing (including advanced traffic management systems, commercial vehicle operations, advanced traveler information systems, commercial and advanced vehicle control systems, advanced public transportation systems, satellite vehicle tracking systems, and advanced vehicle communications systems) used singly or in combination to improve the efficiency and safety of surface transportation systems.

(2) CORRIDOR.—The term "corridor" means any major transportation route which includes parallel limited access highways, major arterials, or transit lines; and, with regard to traffic incident management, such term may include more distant transportation routes that can serve as viable options to each other in the event of traffic incidents.

(3) STATE.—The term "State" has the meaning such term has under section 101 of title 23, United States Code.

PART C—ADVANCED TRANSPORTATION SYSTEMS AND ELECTRIC VEHICLES

49 USC app. 1622 note.

SEC. 6071. ADVANCED TRANSPORTATION SYSTEM AND ELECTRIC VEHICLE RESEARCH AND DEVELOPMENT CONSORTIA.

(a) GENERAL AUTHORITY.—

(1) PROPOSAL.—Not later than 3 months after the date of the enactment of this Act, an eligible consortium may submit to the Secretary a proposal for receiving grants made available under this section for electric vehicle and advanced transportation research and development.

(2) CONTENTS OF PROPOSAL.—A proposal submitted under paragraph (1) shall include—

(A) a description of the eligible consortium making the proposal;

(B) a description of the type of additional members targeted for inclusion in the consortium;

(C) a description of the eligible consortium's ability to contribute significantly to the development of vehicles, transportation systems, or related subsystems and equipment, that are competitive in the commercial market and its ability to enable serial production processes;

(D) a description of the eligible consortium's financing scheme and business plan, including any projected contributions of State and local governments and other parties;

(E) assurances, by letter of credit or other acceptable means, that the eligible consortium is able to meet the requirement contained in subsection (b)(6); and

(F) any other information the Secretary requires in order to make selections under this section.

(3) GRANT AUTHORITY.—Except as provided in paragraph (4), not later than 6 months after the date of the enactment of this

Act, the Secretary shall award grants to not less than 3 eligible consortia. No one eligible consortium may receive more than one-third of the funds made available for grants under this section.

(4) EXTENSION.—If fewer than 3 complete applications from eligible consortia have been received in time to permit the awarding of grants under paragraph (3), the Secretary may extend the deadlines for the submission of applications and the awarding of grants.

(b) ELIGIBILITY CRITERIA.—To be qualified to receive assistance under this section, an eligible consortium shall—

(1) be organized for the purpose of designing and developing electric vehicles and advanced transportation systems, or related systems or equipment, or for the purpose of enabling serial production processes;

(2) facilitate the participation in the consortium of small- and medium-sized businesses in conjunction with large established manufacturers, as appropriate;

(3) to the extent practicable, include participation in the consortium of defense and aerospace suppliers and manufacturers;

(4) to the extent practicable, include participation in the consortium of entities located in areas designated as nonattainment areas under the Clean Air Act;

(5) be designed to use State and Federal funding to attract private capital in the form of grants or investments to further the purposes stated in paragraph (1); and

(6) ensure that at least 50 percent of the costs of the consortium, subject to the requirements of subsection (a)(3), be provided by non-Federal sources.

(c) SERVICES.—Services to be performed by an eligible consortium using amounts from grants made available under this part shall include—

(1) obtaining funding for the acquisition of plant sites, conversion of plant facilities, and acquisition of equipment for the development or manufacture of advanced transportation systems or electric vehicles, or other related systems or equipment, especially for environmentally benign and cost-effective manufacturing processes;

(2) obtaining low-cost, long-term loans or investments for the purposes described in paragraph (1);

(3) recruiting and training individuals for electric vehicle- and transit-related technical design, manufacture, conversion, and maintenance;

(4) conducting marketing surveys for services provided by the consortium;

(5) creating electronic access to an inventory of industry suppliers and serving as a clearinghouse for such information;

(6) consulting with respect to applicable or proposed Federal motor vehicle safety standards;

(7) creating access to computer architecture needed to simulate crash testing and to design internal subsystems and related infrastructure for electric vehicles and advanced transportation systems to meet applicable standards; and

(8) creating access to computer protocols that are compatible with larger manufacturers' systems to enable small- and medium-sized suppliers to compete for contracts for advanced

transportation systems and electric vehicles and other related systems and equipment.

SEC. 6072. DEFINITIONS.

For purposes of this part, the following definitions apply:

(1) ADVANCED TRANSPORTATION SYSTEM.—The term "advanced transportation system" means a system of mass transportation, such as an electric trolley bus or alternative fuels bus, which employs advanced technology in order to function cleanly and efficiently;

(2) ELECTRIC VEHICLE.—The term "electric vehicle" means a passenger vehicle, such as a van, primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electrical current, and that may include a nonelectrical source of supplemental power; and

(3) ELIGIBLE CONSORTIUM.—The term "eligible consortium" means a consortium of—

(A) businesses incorporated in the United States;

(B) public or private educational or research organizations located in the United States;

(C) entities of State or local governments in the United States; or

(D) Federal laboratories.

SEC. 6073. FUNDING.

Funds shall be made available to carry out this part as provided in section 21(b)(3)(E) of the Federal Transit Act.

TITLE VII—AIR TRANSPORTATION

Metropolitan Washington Airports Act Amendments of 1991.
49 USC app. 2451 note.

SEC. 7001. SHORT TITLE.

This title may be cited as the "Metropolitan Washington Airports Act Amendments of 1991".

SEC. 7002. BOARD OF REVIEW.

(a) COMPOSITION.—Section 6007(f)(1) of the Metropolitan Washington Airports Act of 1986 (49 U.S.C. App. 2456(f)(1)) is amended to read as follows:

"(1) COMPOSITION.—The board of directors shall be subject to review of its actions and to requests, in accordance with this subsection, by a Board of Review of the Airports Authority. The Board of Review shall be established by the board of directors to represent the interests of users of the Metropolitan Washington Airports and shall be composed of 9 members appointed by the board of directors as follows:

"(A) 4 individuals from a list provided by the Speaker of the House of Representatives.

"(B) 4 individuals from a list provided by the President pro tempore of the Senate.

"(C) 1 individual chosen alternately from a list provided by the Speaker of the House of Representatives and from a list provided by the President pro tempore of the Senate.

In addition to the recommendations on a list provided under this paragraph, the board of directors may request additional recommendations.".

49 USC app. 2456.

(b) TERMS AND QUALIFICATIONS.—Section 6007(f)(2) of such Act is amended to read as follows:

"(2) TERMS, VACANCIES, AND QUALIFICATIONS.—

"(A) TERMS.—Members of the Board of Review appointed under paragraphs (1)(A) and (1)(B) shall be appointed for terms of 6 years. Members of the Board of Review appointed under paragraph (1)(C) shall be appointed for terms of 2 years. A member may serve after the expiration of that member's term until a successor has taken office.

"(B) VACANCIES.—A vacancy in the Board of Review shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term.

"(C) QUALIFICATIONS.—Members of the Board of Review shall be individuals who have experience in aviation matters and in addressing the needs of airport users and who themselves are frequent users of the Metropolitan Washington Airports. A member of the Board of Review shall be a registered voter of a State other than Maryland, Virginia, or the District of Columbia.

"(D) EFFECT OF MORE THAN 4 VACANCIES.—At any time that the Board of Review established under this subsection has more than 4 vacancies and lists have been provided for appointments to fill such vacancies, the Airports Authority shall have no authority to perform any of the actions that are required by paragraph (4) to be submitted to the Board of Review.".

(c) PROCEDURES.—Section 6007(f)(3) of such Act is amended by inserting "and for the selection of a Chairman" after "proxy voting".

(d) REVIEW PROCEDURE.—

(1) ACTIONS SUBJECT TO REVIEW.—Section 6007(f)(4)(B) of such Act is amended—

(A) by inserting "and any amendments thereto" before the semicolon at the end of clause (i);

(B) by inserting "and an annual plan for issuance of bonds and any amendments to such plan" before the semicolon at the end of clause (ii);

(C) in clause (iv) by striking ", including any proposal for land acquisition; and" and inserting a semicolon;

(D) by striking the period at the end of clause (v) and inserting a semicolon; and

(E) by adding at the end the following new clauses:

"(vi) the award of a contract (other than a contract in connection with the issuance or sale of bonds which is executed within 30 days of the date of issuance of the bonds) which has been approved by the board of directors of the Airports Authority;

"(vii) any action of the board of directors approving a terminal design or airport layout or modification of such design or layout; and

"(viii) the authorization for the acquisition or disposal of land and the grant of a long-term easement.".

(2) RECOMMENDATIONS.—Section 6007(f)(4) of such Act is amended by striking subparagraphs (C) and (D) and inserting the following new subparagraphs: 49 USC app. 2456.

"(C) RECOMMENDATIONS.—The Board of Review may make to the board of directors recommendations regarding an action within either (i) 30 calendar days of its submission under this paragraph; or (ii) 10 calendar days (excluding Saturdays, Sundays, and holidays, and any day on which neither House of Congress is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days) of its submission under this paragraph; whichever period is longer. Such recommendations may include a recommendation that the action not take effect. If the Board of Review does not make a recommendation in the applicable review period under this subparagraph or if at any time in such review period the Board of Review decides that it will not make a recommendation on an action, the action may take effect.

"(D) EFFECT OF RECOMMENDATION.—

"(i) RESPONSE.—An action with respect to which the Board of Review has made a recommendation in accordance with subparagraph (C) may only take effect if the board of directors adopts such recommendation or if the board of directors has evaluated and responded, in writing, to the Board of Review with respect to such recommendation and transmits such action, evaluation, and response to Congress in accordance with clause (ii) and the 60-calendar day period described in clause (ii) expires.

"(ii) NONADOPTION OF RECOMMENDATION.—If the board of directors does not adopt a recommendation of the Board of Review regarding an action, the board of directors shall transmit to the Speaker of the House of Representatives and the President of the Senate a detailed description of the action, the recommendation of the Board of Review regarding the action, and the evaluation and response of the board of directors to such recommendation, and the action may not take effect until the expiration of 60 calendar days (excluding Saturdays, Sundays, and holidays, and any day on which neither House of Congress is in session because of an adjournment sine die, a recess of more than 3 days, or an adjournment of more than 3 days) beginning on the day on which the board of directors makes such transmission to the Speaker of the House of Representatives and the President of the Senate.

"(E) LIMITATION ON EXPENDITURES.—Unless an annual budget for a fiscal year has taken effect in accordance with this paragraph, the Airports Authority may not obligate or expend any money in such fiscal year, except for (i) debt service on previously authorized obligations, and (ii) obligations and expenditures for previously authorized capital expenditures and routine operating expenses.".

(3) CONFORMING AMENDMENT.—Section 6007(f)(4) of such Act is further amended by striking "DISAPPROVAL PROCEDURE.—" and inserting "REVIEW PROCEDURE.—".

49 USC app. 2456.

(e) CONGRESSIONAL DISAPPROVAL PROCEDURE.—Section 6007(f) of such Act is amended by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (6), (7), (8), and (9), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) CONGRESSIONAL DISAPPROVAL PROCEDURE.—

"(A) IN GENERAL.—This paragraph is enacted by Congress—

"(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such these provisions are deemed a part of the rule of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by this paragraph; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(ii) with full recognition of the constitutional right of either House to change the rule (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(B) RESOLUTION DEFINED.—For the purpose of this paragraph, the term 'resolution' means only a joint resolution, relating to an action of the board of directors transmitted to Congress in accordance with paragraph (4)(D)(ii), the matter after the resolving clause of which is as follows: 'That the Congress disapproves of the action of the board of directors of the Metropolitan Washington Airports Authority described as follows: .', the blank space therein being appropriately filled. Such term does not include a resolution which specifies more than one action.

"(C) REFERRAL.—A resolution with respect to a board of director's action shall be referred to the Committee on Public Works and Transportation of the House of Representatives, or the Committee on Commerce, Science and Technology of the Senate, by the Speaker of the House of Representatives or the President of the Senate, as the case may be.

"(D) MOTION TO DISCHARGE.—If the committee to which a resolution has been referred has not reported it at the end of 20 calendar days after its introduction, it is in order to move to discharge the committee from further consideration of that joint resolution or any other resolution with respect to the board of directors action which has been referred to the committee.

"(E) RULES WITH RESPECT TO MOTION.—A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same action), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. Motions to postpone shall be decided without debate.

"(F) EFFECT OF MOTION.—If the motion to discharge is agreed to or disagreed to, the motion may not be renewed,

nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same action.

"(G) SENATE PROCEDURE.—

"(i) MOTION TO PROCEED.—When the committee of the Senate has reported, or has been discharged from further consideration of, a resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(ii) LIMITATION ON DEBATE.—Debate in the Senate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(iii) NO DEBATE ON CERTAIN MOTIONS.—In the Senate, motions to postpone made with respect to the consideration of a resolution and motions to proceed to the consideration of other business shall be decided without debate.

"(iv) APPEALS.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution shall be decided without debate.

"(H) EFFECT OF ADOPTION OF RESOLUTION BY OTHER HOUSE.—If, before the passage by 1 House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

"(i) The joint resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it, except in the case of final passage as provided in clause (ii)(I).

"(ii) With respect to a joint resolution described in clause (i) of the House receiving the joint resolution—

"(I) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

"(II) the vote on final passage shall be on the joint resolution of the other House.

Upon disposition of the joint resolution received from the other House, it shall no longer be in order to consider the joint resolution that originated in the receiving House.".

(f) CONFLICTS OF INTEREST; REMOVAL FOR CAUSE.—Section 6007(f) of such Act is further amended by adding at the end the following new paragraphs: 49 USC app. 2456.

"(10) CONFLICTS OF INTEREST.—In every contract or agreement to be made or entered into, or accepted by or on behalf of the Airports Authority, there shall be inserted an express condition

that no member of a Board of Review shall be admitted to any share or part of such contract or agreement, or to any benefit to arise thereupon.

"(11) REMOVAL.—A member of the Board of Review shall be subject to removal only for cause by a two-thirds vote of the board of directors.".

49 USC app. 2456.

(g) LIMITATION ON AUTHORITY.—Section 6007(h) of such Act is amended by inserting "thereafter" before "shall have no".

(h) REVIEW OF CONTRACTS.—Section 6007 of such Act is further amended by adding at the end the following new subsection:

"(i) REVIEW OF CONTRACTING PROCEDURES.—The Comptroller General shall review contracts of the Airports Authority to determine whether such contracts were awarded by procedures which follow sound Government contracting principles and are in compliance with section 6005(c)(4) of this title. The Comptroller General shall submit periodic reports of the conclusions reached as a result of such review to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.".

Reports.

49 USC app. 2454 note.

SEC. 7003. AMENDMENT OF LEASE.

The Secretary of Transportation may amend the lease entered into with the Metropolitan Washington Airports Authority under section 6005(a) of the Metropolitan Washington Airports Authority Act of 1986 to secure the Airports Authority's consent to the conditions relating to the new Board of Review to be established pursuant to the amendments made by this Act.

49 USC app. 2456 note.

SEC. 7004. TERMINATION OF EXISTING BOARD OF REVIEW AND ESTABLISHMENT OF NEW BOARD OF REVIEW.

(a) TERMINATION OF EXISTING BOARD AND ESTABLISHMENT OF NEW BOARD.—Except as provided in subsection (b), the Board of Review of the Metropolitan Washington Airports Authority in existence on the day before the date of the enactment of this Act shall terminate on such date of enactment and the board of directors of such Airports Authority shall establish a new Board of Review in accordance with the Metropolitan Washington Airports Act of 1986, as amended by this Act.

(b) PROTECTION OF CERTAIN ACTIONS.—The provisions of section 6007(h) of the Metropolitan Washington Airports Act (49 U.S.C. App. 2456(h)) in effect on the day before the date of the enactment of this Act shall apply only to those actions specified in section 6007(f)(4)(B) of such Act that would have been submitted to the Board of Review of the Metropolitan Washington Airports Authority on or after June 17, 1991, the date on which the Board of Review of the Airports Authority was declared unable to carry out certain of its functions pursuant to judicial order. Actions taken by the Airports Authority and submitted to the Board of Review pursuant to section 6007(f)(4) of such Act prior to June 17, 1991, and not disapproved, shall remain in effect and shall not be set aside solely by reason of a judicial order invalidating certain functions of the Board of Review.

(c) LIMITATION ON AUTHORITY OF AIRPORTS AUTHORITY.—The Metropolitan Washington Airports Authority shall have no authority to perform any of the actions that are required by section 6007(f)(4) of the Metropolitan Washington Airports Act, as amended by this Act, to be submitted to the Board of Review after the date of the enactment of this Act until the board of directors of the Airports

Authority establishes a new Board of Review in accordance with such Act and appoints the 9 members of the Board of Review.

TITLE VIII—EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST FUND

Surface Transportation Revenue Act of 1991.

SEC. 8001. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the "Surface Transportation Revenue Act of 1991". 26 USC 1 note.

(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. 8002. EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST FUND.

(a) EXTENSION OF TAXES.—The following provisions are each amended by striking "1995" each place it appears and inserting "1999":

(1) Section 4051(c) (relating to tax on heavy trucks and trailers sold at retail). 26 USC 4051.

(2) Section 4071(d) (relating to tax on tires and tread rubber). 26 USC 4071.

(3) Section 4081(d)(1) (relating to Highway Trust Fund financing rate on gasoline).

(4) Section 4091(b)(6)(A) (relating to Highway Trust Fund financing rate on diesel fuel). 26 USC 4091.

(5) Sections 4481(c), 4482(c)(4), and 4482(d) (relating to highway use tax). 26 USC 4481, 4482.

(b) EXTENSION OF EXEMPTIONS.—The following provisions are each amended by striking "1995" each place it appears and inserting "1999":

(1) Section 4041(f)(3) (relating to exemptions for farm use). 26 USC 4041.

(2) Section 4041(g) (relating to other exemptions).

(3) Section 4221(a) (relating to certain tax-free sales). 26 USC 4221.

(4) Section 4483(g) (relating to termination of exemptions for highway use tax). 26 USC 4483.

(5) Section 6420(h) (relating to gasoline used on farms). 26 USC 6420.

(6) Section 6421(i) (relating to gasoline used for certain nonhighway purposes, etc.). 26 USC 6421.

(7) Section 6427(g)(5) (relating to advance repayment of increased diesel fuel tax). 26 USC 6427.

(8) Section 6427(o) (relating to fuels not used for taxable purposes).

(c) OTHER PROVISIONS.—

(1) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended— 26 USC 6412.

(A) by striking "1995" each place it appears and inserting "1999", and

(B) by striking "1996" each place it appears and inserting "2000".

(2) INSTALLMENT PAYMENTS OF HIGHWAY USE TAX.—Section 6156(e)(2) (relating to installment payments of highway use tax on use of highway motor vehicles) is amended by striking "1995" and inserting "1999". 26 USC 6156.

(d) EXTENSION OF DEPOSITS INTO, AND CERTAIN TRANSFERS FROM, TRUST FUND.—

26 USC 9503.

(1) IN GENERAL.—Subsection (b), and paragraphs (2) and (3) of subsection (c), of section 9503 (relating to the Highway Trust Fund) are each amended—

(A) by striking "1995" each place it appears and inserting "1999", and

(B) by striking "1996" each place it appears and inserting "2000".

(2) MOTORBOAT AND SMALL-ENGINE FUEL TAX TRANSFERS.—

(A) IN GENERAL.—Paragraphs (4)(A)(i) and (5)(A) of section 9503(c) are each amended by striking "1995" and inserting "1997".

(B) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-11) is amended—

(i) by striking "1995" and inserting "1997", and

(ii) by striking "1996" each place it appears and inserting "1998".

26 USC 9504.

(C) EXTENSION OF EXPENDITURES FROM BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 is amended by striking "1994" and inserting "1998".

(e) EXTENSION AND EXPANSION OF EXPENDITURES FROM TRUST FUND.—

(1) EXPENDITURES.—Subsections (c)(1) and (e)(3) of section 9503 are each amended by striking "1993" and inserting "1997".

(2) PURPOSES.—Paragraph (1) of section 9503(c) is amended by striking subparagraph (D) and inserting the following:

"(D) authorized to be paid out of the Highway Trust Fund under the Intermodal Surface Transportation Efficiency Act of 1991.

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 1991."

(f) EXPANSION OF MASS TRANSIT ACCOUNT EXPENDITURE PURPOSES.—Paragraph (3) of section 9503(e) is amended—

(1) by inserting "or capital-related" after "capital" the first place it appears, and

(2) by striking "in accordance with section 21(a)(2) of the Urban Mass Transportation Act of 1964." and inserting "in accordance with—

"(A) paragraph (1) or (3) of subsection (a), or paragraph (1) or (3) of subsection (b), of section 21 of the Federal Transit Act, or

"(B) the Intermodal Surface Transportation Efficiency Act of 1991,

as such Acts are in effect on the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991."

23 USC 101 note.

(g) USE OF REVENUES FOR ENFORCEMENT OF HIGHWAY TRUST FUND TAXES.—The Secretary of Transportation shall not impose any condition on the use of funds transferred under section 1040 of this Act to the Internal Revenue Service. The Secretary of the Treasury shall, at least 60 days before the beginning of each fiscal year (after fiscal year 1992) for which such funds are to be transferred, submit a report to the Committee on Ways and Means of the House of

Reports.

Representatives and the Committee on Finance of the Senate detailing the increased enforcement activities to be financed with such funds with respect to taxes referred to in section 9503(b)(1) of the Internal Revenue Code of 1986.

(h) TAX EVASION REPORT.—The Secretary of Transportation shall also submit each report prepared pursuant to section 1040(d) of this Act to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than the applicable date specified therein. 23 USC 101 note.

(i) EXPENDITURES FROM SPORT FISH RESTORATION ACCOUNT.—Subparagraph (B) of section 9504(b)(2) is amended to read as follows: 26 USC 9504.

"(B) to carry out the purposes of the Coastal Wetlands Planning, Protection and Restoration Act (as in effect on November 29, 1990)."

SEC. 8003. NATIONAL RECREATIONAL TRAILS TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 (relating to trust fund code) is amended by adding at the end thereof the following new section:

"SEC. 9511. NATIONAL RECREATIONAL TRAILS TRUST FUND. 26 USC 9511.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the "National Recreational Trails Trust Fund", consisting of such amounts as may be credited or paid to such Trust Fund as provided in this section, section 9503(c)(6), or section 9602(b).

"(b) CREDITING OF CERTAIN UNEXPENDED FUNDS.—There shall be credited to the National Recreational Trails Trust Fund amounts returned to such Trust Fund under section 1302(e)(8) of the Intermodal Surface Transportation Efficiency Act of 1991.

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the National Recreational Trails Trust Fund shall be available, as provided in appropriation Acts, for making expenditures before October 1, 1997, to carry out the purposes of sections 1302 and 1303 of the Intermodal Surface Transportation Efficiency Act of 1991, as in effect on the date of the enactment of such Act."

(b) CERTAIN HIGHWAY TRUST FUND RECEIPTS PAID INTO NATIONAL RECREATIONAL TRAILS TRUST FUND.—Subsection (c) of section 9503 is amended by adding at the end thereof the following new paragraph: 26 USC 9503.

"(6) TRANSFERS FROM TRUST FUND OF CERTAIN RECREATIONAL FUEL TAXES, ETC.—

"(A) IN GENERAL.—The Secretary shall pay from time to time from the Highway Trust Fund into the National Recreational Trails Trust Fund amounts (as determined by him) equivalent to 0.3 percent (as adjusted under subparagraph (C)) of the total Highway Trust Fund receipts for the period for which the payment is made.

"(B) LIMITATION.—The amount paid into the National Recreational Trails Trust Fund under this paragraph during any fiscal year shall not exceed the amount obligated under section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (as in effect on the date of the enactment of this paragraph) for such fiscal year to be expended from such Trust Fund.

"(C) ADJUSTMENT OF PERCENTAGE.—

"(i) FIRST YEAR.—Within 1 year after the date of the enactment of this paragraph, the Secretary shall adjust

the percentage contained in subparagraph (A) so that it corresponds to the revenues received by the Highway Trust Fund from nonhighway recreational fuel taxes.

"(ii) SUBSEQUENT YEARS.—Not more frequently than once every 3 years, the Secretary may increase or decrease the percentage established under clause (i) to reflect, in the Secretary's estimation, changes in the amount of revenues received in the Highway Trust Fund from nonhighway recreational fuel taxes.

"(iii) AMOUNT OF ADJUSTMENT.—Any adjustment under clause (ii) shall be not more than 10 percent of the percentage in effect at the time the adjustment is made.

"(iv) USE OF DATA.—In making the adjustments under clauses (i) and (ii), the Secretary shall take into account data on off-highway recreational vehicle registrations and use.

"(D) NONHIGHWAY RECREATIONAL FUEL TAXES.—For purposes of this paragraph, the term 'nonhighway recreational fuel taxes' means taxes under section 4041, 4081, and 4091 (to the extent attributable to the Highway Trust Fund financing rate) with respect to—

"(i) fuel used in vehicles on recreational trails or back country terrain (including vehicles registered for highway use when used on recreational trails, trail access roads not eligible for funding under title 23, United States Code, or back country terrain), and

"(ii) fuel used in campstoves and other nonengine uses in outdoor recreational equipment.

Such term shall not include small-engine fuel taxes (as defined by paragraph (5)) and taxes which are credited or refunded.

"(E) TERMINATION.—No amount shall be paid under this paragraph after September 30, 1997.".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 is amended by adding at the end thereof the following new item:

"Sec. 9511. National Recreational Trails Trust Fund.".

26 USC 9503 note.

(d) REPORT ON NONHIGHWAY RECREATIONAL FUEL TAXES.—The Secretary of the Treasury shall, within a reasonable period after the close of each of fiscal years 1992 through 1996, submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate specifying his estimate of the amount of nonhighway recreational fuel taxes (as defined in section 9503(c)(6) of the Internal Revenue Code of 1986, as added by this Act) received in the Treasury during such fiscal year.

49 USC app. 1601 note.

SEC. 8004. COMMUTE-TO-WORK BENEFITS.

(a) FINDINGS.—The Congress finds that—

(1) current Federal policy places commuter transit benefits at a disadvantage compared to drive-to-work benefits;

(2) this Federal policy is inconsistent with important national policy objectives, including the need to conserve energy, reduce reliance on energy imports, lessen congestion, and clean our Nation's air;

(3) commuter transit benefits should be part of a comprehensive solution to national transportation and air pollution problems;

(4) current Federal law allows employers to provide only up to $21 per month in employee benefits for transit or van pools;

(5) the current "cliff provision", which treats an entire commuter transit benefit as taxable income if it exceeds $21 per month, unduly penalizes the most effective employer efforts to change commuter behavior;

(6) employer-provided commuter transit incentives offer many public benefits, including increased access of low-income persons to good jobs, inexpensive reduction of roadway and parking congestion, and cost-effective incentives for timely arrival at work; and

(7) legislation to provide equitable treatment of employer-provided commuter transit benefits has been introduced with bipartisan support in both the Senate and House of Representatives.

(b) POLICY.—The Congress strongly supports Federal policy that promotes increased use of employer-provided commuter transit benefits. Such a policy "levels the playing field" between transportation modes and is consistent with important national objectives of energy conservation, reduced reliance on energy imports, lessened congestion, and clean air.

SEC. 8005. BUDGET COMPLIANCE.

(a) IN GENERAL.—If obligations provided for programs pursuant to this Act for fiscal year 1992 will cause—

(1) the total outlays in any of the fiscal years 1992 through 1995 which result from this Act, to exceed

(2) the total outlays for such programs in any such fiscal year which result from appropriation Acts for fiscal year 1992 and are attributable to obligations for fiscal year 1992,

then the Secretary of Transportation shall reduce proportionately the obligations provided for each program pursuant to this Act for fiscal year 1992 to the extent required to avoid such excess outlays.

(b) COORDINATION WITH OTHER PROVISIONS.—The provisions of this section shall apply, notwithstanding any provision of this Act to the contrary.

Approved December 18, 1991.

LEGISLATIVE HISTORY—H.R. 2950 (S. 1204):

HOUSE REPORTS: Nos. 102-171, Pt. 1 (Comm. on Public Works and Transportation) and Pt. 2 (Comm. on Ways and Means), and 102-404 (Comm. of Conference).

SENATE REPORTS: No. 102-71 accompanying S. 1204 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 137 (1991):

June 11-14, 17-19, S. 1204 considered and passed Senate.
Oct. 23, H.R. 2950 considered and passed House.
Oct. 31, considered and passed Senate, amended, in lieu of S. 1204.
Nov. 26, House agreed to conference report.
Nov. 27, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 27 (1991):

Dec. 18, Presidential remarks and statement.

○

Public Law 102-241
102d Congress

An Act

Dec. 19, 1991
[H.R. 1776]

To authorize for fiscal year 1992 the United States Coast Guard Budget.

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

Coast Guard Authorization Act of 1991. Maritime affairs.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1991".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for Fiscal Year 1992, as follows:

(a) For the operation and maintenance of the Coast Guard, $2,570,000,000, of which $500,000 shall be used to implement the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (Public Law 101-646), and $35,000,000 shall be expended from the Boat Safety Account.

(b)(1) For the acquisition, construction, rebuilding and improvement of aids to navigation, shore and offshore facilities, vessels, sonar simulators, and aircraft, including equipment related thereto, $466,000,000, of which $29,000,000 shall be used to acquire a command and control aircraft, to remain available until expended.

(2) Funds authorized to be appropriated for the construction of a new seagoing buoy tender (WLB) may not be expended for the acquisition of oil recovery systems unless those systems are manufactured in the United States and only pursuant to competitive bidding based on performance specification and cost.

(3)(A) Notwithstanding another provision of law, the Secretary of the department in which the Coast Guard is operating may submit a request for reprogramming of funds to purchase, lease, or lease with option to purchase a replacement command and control aircraft for the Coast Guard during fiscal year 1992. The request shall be in accordance with the existing procedures for congressional review of appropriations reprogramming requests. Subject to those reprogramming procedures—

(i) the Coast Guard may enter into a multiyear lease agreement for a replacement aircraft and may utilize operating expenses for a multiyear lease but not for the purchase of aircraft; and

(ii) funds may be reprogrammed, pursuant to the request, from any subaccount of the acquisition, construction, and improvements appropriation.

(B) The Coast Guard may transfer the current command and control aircraft to the vendor of a replacement aircraft in exchange for an equitable reduction in the cash price of an aircraft to be acquired, or in lieu of exchange, the current aircraft may be sold and the proceeds applied toward a purchase, lease, or lease with option to purchase.

59-139 O - 91 (241)

(4) Before October 1, 1992, the Secretary of Transportation shall use funds as may be necessary, not more than $14,000,000, to begin and actively pursue the renovation project to extend the useful life of the Coast Guard Cutter Mackinaw at least an additional 15 years.

(c) For research, development, test, and evaluation, $29,150,000, to remain available until expended.

(d) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $487,700,000, to remain available until expended.

(e) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, $11,100,000, to remain available until expended.

(f) For environmental compliance and restoration at Coast Guard facilities, $25,100,000, to remain available until expended.

(g) Of the amounts authorized for Coast Guard operations and maintenance and acquisition, construction and improvement, the following amounts shall be derived from transfer from the Oil Spill Liability Fund for implementation of the Oil Pollution Act of 1990 (Public Law 101-380; 104 Stat. 484):

(1) $25,000,000 for operating expenses; and

(2) $30,000,000 to establish the National Response System under section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)), including the purchase and prepositioning of oil spill removal equipment.

(h) Of the amounts authorized for Coast Guard operations and maintenance, not more than $1,900,000 shall be used for annual obligations of membership in the International Maritime Organization for calendar year 1992, notwithstanding section 2 of the Act of September 21, 1950 (22 U.S.C. 262a).

SEC. 3. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING FOR FISCAL YEAR 1992.

(a) As of September 30, 1992, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,559. The authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) For fiscal year 1992, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,653 student years.

(2) For flight training, 110 student years.

(3) For professional training in military and civilian institutions, 362 student years.

(4) For officer acquisition, 878 student years.

SEC. 4. TRANSFER OF AUTHORITY FROM THE SECRETARY OF TRANSPORTATION TO THE SECRETARY OF THE NAVY UPON THE TRANSFER OF THE COAST GUARD TO THE NAVY.

Reports.

Not later than ninety days after enactment of this Act, the Secretary of Transportation shall submit to Congress a report on the functions, powers, and duties vested in the Secretary of Transportation and exercised through delegation to the Commandant of the Coast Guard that would be transferred to the Secretary of the Navy

when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States Code.

SEC. 5. RETIREMENT OF REAR ADMIRALS.

(a) Section 290 of title 14, United States Code, is amended—

(1) in subsection (e) by striking "June 30 of" and substituting "July 1 of the promotion year immediately following"; and

(2) by striking subsections (f) and (g) and substituting the following new subsections:

"(f)(1) Unless retired under another provision of law, each officer who is continued on active duty under this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes seven years of combined service in the grades of rear admiral (lower half) and rear admiral, unless that officer is selected for or serving in the grade of admiral or vice admiral or the position of Chief of Staff or Superintendent of the Coast Guard Academy.

"(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or vice admiral or the position of Chief of Staff or Superintendent of the Coast Guard Academy, or retired under another provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.

"(g)(1) Unless retired under another provision of law, an officer subject to this section shall, except as provided in paragraph (2), be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes a total of thirty-six years of active commissioned service unless selected for or serving in the grade of admiral.

"(2) The Commandant, with the approval of the Secretary, may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under paragraph (1). Unless selected for or serving in the grade of admiral or retired under another provision of law, an officer so retained shall be retired on July 1 of the promotion year immediately following the promotion year in which no action is taken to further retain that officer under this paragraph.".

(b)(1) Section 290(a) of title 14, United States Code, is amended by striking "he" and substituting "that officer".

(2) Section 290(d) of title 14, United States Code, is amended by striking "his" each place it appears.

SEC. 6. ENLISTED PERSONNEL BOARDS.

(a) Section 357 of title 14, United States Code, is amended to read as follows:

"(a) Enlisted Personnel Boards shall be convened as the Commandant may prescribe to review the records of enlisted members who have twenty or more years of active military service.

"(b) Enlisted members who have twenty or more years of active military service may be considered by the Commandant for involuntary retirement and may be retired on recommendation of a Board—

"(1) because the member's performance is below the standards the Commandant prescribes; or

"(2) because of professional dereliction.

"(c) An enlisted member under review by the Board shall be—

"(1) notified in writing of the reasons the member is being considered for involuntary retirement;

"(2) allowed sixty days from the date on which counsel is provided under paragraph (3) to submit any matters in rebuttal;

"(3) provided counsel, certified under section 827(b) of title 10, to help prepare the rebuttal submitted under paragraph (2) and to represent the member before the Board under paragraph (5);

"(4) allowed full access to and be furnished with copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted under paragraph (2); and

"(5) allowed to appear before the Board and present witnesses or other documentation related to the review.

"(d) A Board convened under this section shall consist of at least three commissioned officers, at least one of whom shall be of the grade of commander or above.

"(e) A Board convened under this section shall recommend to the Commandant enlisted members who—

"(1) have twenty or more years of active service;

"(2) have been considered for involuntary retirement; and

"(3) it determines should be involuntarily retired.

"(f) After the Board makes its determination, each enlisted member the Commandant considers for involuntary retirement shall be—

"(1) notified by certified mail of the reasons the member is being considered for involuntary retirement;

"(2) allowed sixty days from the date counsel is provided under paragraph (3) to submit any matters in rebuttal;

"(3) provided counsel, certified under section 827(b) of title 10, to help prepare the rebuttal submitted under paragraph (2); and

"(4) allowed full access to and be furnished with copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted under paragraph (2).

"(g) If the Commandant approves the Board's recommendation, the enlisted member shall be notified of the Commandant's decision and shall be retired from the service within ninety days of the notification.

"(h) An enlisted member, who has completed twenty years of service and who the Commandant has involuntarily retired under this section, shall receive retired pay.

"(i) An enlisted member voluntarily or involuntarily retired after twenty years of service who was cited for extraordinary heroism in the line of duty shall be entitled to an increase in retired pay. The retired pay shall be increased by 10 percent of—

"(1) the active-duty pay and permanent additions thereto of the grade or rating with which retired when the member's retired pay is computed under section 423(a) of this title; or

"(2) the member's retired pay base under section 1407 of title 10, when a member's retired pay is computed under section 423(b) of this title.

"(j) When the Secretary orders a reduction in force, enlisted personnel may be involuntarily separated from the service without the Board's action.".

(b) The catchline to section 357 of title 14, United States Code, is amended to read:

"§ 357. Involuntary retirement of enlisted members";

and item 357 in the analysis to chapter 11 of title 14, United States Code, is amended to read:

"357. Involuntary retirement of enlisted members.".

SEC. 7. AUTHORITY TO ACCEPT COURT-ORDERED COMMUNITY SERVICE.

Section 93 of title 14, United States Code, is amended by—

(1) striking the word "and" at the end of subsection (q);

(2) striking the period at the end of subsection (r) and inserting "; and"; and

(3) adding the following new subsection:

"(s) accept, under terms and conditions the Commandant establishes, the service of an individual ordered to perform community service under the order of a Federal, State, or municipal court.".

SEC. 8. HOUSING UNIT LEASE AUTHORITY.

(a)(1) The Coast Guard may enter into a lease, for a term in excess of one fiscal year, to acquire a site at the Massachusetts Military Reservation on Cape Cod, Massachusetts, for construction or renovation of housing units, or both.

(2) Any lease authorized under paragraph (1) is effective only to the extent that amounts are provided for in advance in appropriations Acts.

(b) Beginning in fiscal year 1991, the Coast Guard may spend appropriated amounts for the construction or renovation (or both) of housing units at the site of the Massachusetts Military Reservation.

SEC. 9. AIR FACILITIES LEASE AUTHORITY.

(a)(1) The Coast Guard may enter into a lease, for a term in excess of one fiscal year, to acquire a site at Charleston, South Carolina, for construction of a permanent air facility.

(2) Any lease authorized under paragraph (1) is effective only to the extent that amounts are provided for in advance in appropriations Acts.

(b) Beginning in fiscal year 1991, the Coast Guard may spend appropriated amounts for the construction of a permanent air facility on the site at Charleston, South Carolina.

Reports.

SEC. 10. COAST GUARD HOUSING STUDY.

Not later than six months after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on Coast Guard housing. The report shall examine the current housing problems of the Coast Guard, the long-term housing needs of the Coast Guard, and estimates of projected housing costs needed to relieve the current problems.

31 USC 1105 note.

SEC. 11. TWO-YEAR BUDGET CYCLE FOR THE COAST GUARD.

Notwithstanding another law, the President is not required to submit a two-year budget request for the Coast Guard until the President is required to submit a two-year budget request for the Department of Transportation.

SEC. 12. TRANSPORTATION OF HOUSEHOLD EFFECTS OF COAST GUARD CADETS.

Section 406(b)(2)(E) of title 37, United States Code, is amended to read as follows:

"(E) Under regulations prescribed by the Secretary of Defense, or the Secretary of Transportation for the Coast Guard when it is not operating as a service in the Navy, cadets at the United States Military Academy, the United States Air Force Academy, and the United States Coast Guard Academy, and midshipmen at the United States Naval Academy shall be entitled, in connection with temporary or permanent station change, to transportation of baggage and household effects as provided in subparagraph (A) of this paragraph. The weight allowance for cadets and midshipmen is 350 pounds.". Regulations.

SEC. 13. EMERGENCY RECALL OF RESERVISTS.

Section 712(a) of title 14, United States Code, is amended to read as follows:

"(a) Notwithstanding another law, and for the emergency augmentation of the Regular Coast Guard forces during a serious natural or manmade disaster, accident, or catastrophe, the Secretary may, without the consent of the member affected, order to active duty of not more than thirty days in any four-month period and not more than sixty days in any two-year period an organized training unit of the Coast Guard Ready Reserve, a member thereof, or a member not assigned to a unit organized to serve as a unit.".

SEC. 14. RECALL OF RETIRED OFFICERS.

(a) Section 332(b) of title 14, United States Code, is amended by striking "1" and substituting "2".

(b) Section 332(a) of title 14, United States Code, is amended by striking "his" and substituting "that officer's" and by striking "he" and substituting "that officer".

SEC. 15. COAST GUARD ACADEMY ADVISORY COMMITTEE TERMINATION DATE.

Section 193 of title 14, United States Code, is amended by striking at the end "September 30, 1992", and inserting "September 30, 1994".

SEC. 16. AMENDMENT TO THE VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT OF 1971.

Section 4(a)(1) of the Vessel Bridge-to-Bridge Radiotelephone Act of 1971 (33 U.S.C. 1203(a)(1)) is amended to read as follows:

"(1) every power-driven vessel of twenty meters or over in length while navigating;".

SEC. 17. NORTH CAROLINA MARITIME MUSEUM.

Notwithstanding section 3301(8) of title 46, United States Code, the GENERAL GREENE (vessel identification number USG NP5000025661), may transport not more than sixteen passengers when the North Carolina Maritime Museum operates the vessel for educational purposes.

SEC. 18. HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE. Establishment.

(a)(1) There is established a Houston-Galveston Navigation Safety Advisory Committee (hereinafter referred to as the "Committee"). The Committee shall advise, consult with, and make recommenda-

tions to the Secretary of the department in which the Coast Guard is operating (hereinafter in this part referred to as the "Secretary") on matters relating to the transit of vessels and products to and from the Ports of Galveston, Houston, Texas City, and Galveston Bay. The Secretary shall, whenever practicable, consult with the Committee before taking any significant action related to navigation safety at these port facilities. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned.

(2) The Committee is authorized to make available to Congress any information, advice, and recommendations that the Committee is authorized to give to the Secretary. The Committee shall meet at the call of the Secretary, but in any event not less than once during each calendar year. All matters relating to or proceedings of the Committee shall comply with the Federal Advisory Committee Act (5 App. U.S.C.).

(b) The Committee shall consist of eighteen members, who have particular expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels in the inshore and the offshore waters of the Gulf of Mexico:

(1) Two members who are employed by the Port of Houston Authority or have been selected by that entity to represent them.

(2) Two members who are employed by the Port of Galveston or the Texas City Port Complex or have been selected by those entities to represent them.

(3) Two members from organizations that represent shipowners, stevedores, shipyards, or shipping organizations domiciled in the State of Texas.

(4) Two members representing organizations that operate tugs or barges that utilize the port facilities at Galveston, Houston, and Texas City Port Complex.

(5) Two members representing shipping companies that transport cargo from the Ports of Galveston and Houston on liners, break bulk, or tramp steamer vessels.

(6) Two members representing those who pilot or command vessels that utilize the Ports of Galveston and Houston.

(7) Two at-large members who may represent a particular interest group but who utilize the port facilities at Galveston, Houston, and Texas City.

(8) One member representing labor organizations which load and unload cargo at the Ports of Galveston and Houston.

(9) One member representing licensed merchant mariners, other than pilots, who perform shipboard duties on vessels which utilize the port facilities of Galveston and Houston.

(10) One member representing environmental interests.

(11) One member representing the general public.

Federal Register, publication.

(c) The Secretary shall appoint the members of the Committee after first soliciting nominations by notice published in the Federal Register. The Secretary may request the head of any other Federal agency or department to designate a representative to advise the Committee on matters within the jurisdiction of that agency or department.

(d) The Committee shall elect, by majority vote at its first meeting, one of the members of the Committee as the chairman and one of the members as the vice chairman. The vice chairman shall act as

chairman in the absence or incapacity of, or in the event of a vacancy in the Office of the Chairman.

(e) Terms of members appointed to the Committee shall be for two years. The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

Federal Register, publication.

(f) Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(g) The term of members of the Committee shall begin on October 1, 1992.

SEC. 19. LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.

Establishment. Safety.

(a)(1) There is established a Lower Mississippi River Waterway Advisory Committee (hereinafter referred to as the "Committee"). The Committee shall advise, consult with, and make recommendations to the Secretary of the department in which the Coast Guard is operating (hereinafter in this part referred to as the "Secretary") on a wide range of matters regarding all facets of navigational safety related to the Lower Mississippi River. The Secretary shall, whenever practicable, consult with the Committee before taking any significant action related to navigation safety in the Lower Mississippi River. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned.

(2) The Committee is authorized to make available to Congress any information, advice, and recommendations which the Committee is authorized to give the Secretary. The Committee shall meet at the call of the Chairman, or upon request of the majority of Committee members, but in any event not less than once during each calendar year. All matters relating to or proceedings of the Committee shall comply with the Federal Advisory Committee Act (5 App. U.S.C.).

(b) The Committee shall consist of twenty-four members who have expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels on the Lower Mississippi River and its connecting navigable waterways including the Gulf of Mexico:

(1) Five members representing River Port Authorities between Baton Rouge, Louisiana, and the head of passes of the Lower Mississippi River, of which one member shall be from the Port of St. Bernard and one member from the Port of Plaquemines.

(2) Two members representing vessel owners or ship owners domiciled in the State of Louisiana.

(3) Two members representing organizations which operate harbor tugs or barge fleets in the geographical area covered by the Committee.

(4) Two members representing companies which transport cargo or passengers on the navigable waterways in the geographical area covered by the Committee.

(5) Three members representing State Commissioned Pilot organizations, with one member each representing the New Orleans/Baton Rouge Steamship Pilots Association, the Crescent River Port Pilots Association, and the Associated Branch Pilots Association.

(6) Two at-large members who utilize water transportation facilities located in the geographical area covered by the Committee.

(7) Three members representing consumers, shippers, or importers/exporters that utilize vessels which utilize the navigable waterways covered by the Committee.

(8) Two members representing those licensed merchant mariners, other than pilots, who perform shipboard duties on those vessels which utilize navigable waterways covered by the Committee.

(9) One member representing an organization that serves in a consulting or advisory capacity to the maritime industry.

(10) One member representing an environmental organization.

(11) One member representing the general public.

Federal Register, publication.

(c) The Secretary shall appoint the members of the Committee upon recommendation after first soliciting nominations by notice in the Federal Register. The Secretary may request the head of any other Federal agency or department to designate a representative to advise the Committee on matters within the jurisdiction of that agency or department, who shall not be a voting member of the Committee.

(d) The Committee shall annually elect, by majority vote at its first meeting, a chairman and vice chairman from its membership. The vice chairman shall act as chairman in the absence or incapacity of, or in the event of a vacancy in, the Office of the Chairman.

Federal Register, publication.

(e) Terms of members appointed to the Committee shall be two years. The Secretary shall, not less than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

(f) Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular place of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

SEC. 20. VESSEL REQUIREMENTS.

Section 3503 of title 46, United States Code, is amended as follows:

(1) in subsection (a), by striking "November 1, 1993" and substituting "November 1, 1998"; and

(2) in subsection (b)(1)—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and substituting "; and"; and

(C) by adding the following new subparagraph:

"(D) the owner or managing operator of the vessel shall notify the Coast Guard of structural alterations to the vessel, and with regard to those alterations comply with any noncombustible material requirements that the Coast

Guard prescribes for nonpublic spaces. Coast Guard requirements shall be consistent with preservation of the historic integrity of the vessel in areas carrying or accessible to passengers or generally visible to the public.".

SEC. 21. AMENDMENT OF INLAND NAVIGATIONAL RULES.

Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001 et seq.) is amended—

(1) in Rule 1(e) (33 U.S.C. 2001(e)), by striking "without interfering with the special function of the vessel,"; and

(2) in Rule 8 (33 U.S.C. 2008), by inserting immediately after paragraph (e) the following new paragraph:

"(f)(i) A vessel which, by any of these Rules, is required not to impede the passage or safe passage of another vessel shall, when required by the circumstances of the case, take early action to allow sufficient sea room for the safe passage of the other vessel.

"(ii) A vessel required not to impede the passage or safe passage of another vessel is not relieved of this obligation if approaching the other vessel so as to involve risk of collision and shall, when taking action, have full regard to the action which may be required by the Rules of this part.

"(iii) A vessel the passage of which is not to be impeded remains fully obliged to comply with the Rules of this part when the two vessels are approaching one another so as to involve risk of collision.".

SEC. 22. DESIGNATION OF THE BORDEAUX RAILROAD BRIDGE AS AN OBSTRUCTION TO NAVIGATION.

Notwithstanding another law, the Bordeaux Railroad Bridge at mile 185.2 of the Cumberland River is deemed an unreasonable obstruction to navigation.

SEC. 23. NEW CONSTRUCTION DECLARATION.

The vessel, SEA FALCON, United States official number 606930, is deemed to have been built in the year 1990 for all purposes of subtitle II of title 46, United States Code.

SEC. 24. NATIONAL BOATING SAFETY ADVISORY COUNCIL.

Section 13110(e) of title 46, United States Code, is amended by striking "September 30, 1991" and substituting "September 30, 1996".

SEC. 25. COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.

Section 4508(e)(1) of title 46, United States Code, is amended by striking "1992" and substituting "1994".

SEC. 26. CONVEYANCE OF CAPE MAY POINT LIGHTHOUSE.

New Jersey. Historic preservation. Real property.

(a)(1) The Secretary may convey to the State of New Jersey, by any appropriate means of conveyance, all right, title, and interest of the United States in and to property comprising the Cape May Point Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b)(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard and the maritime history of Cape May, New Jersey.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of New Jersey may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining navigation aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The State of New Jersey shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(c) For purposes of this section—

(1) "Cape May Point Lighthouse" means the Coast Guard lighthouse located at Cape May, New Jersey, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such land as may be necessary to enable the State of New Jersey to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard and the maritime history of Cape May, New Jersey; and

(2) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

Louisiana.

SEC. 27. SHIP SHOAL LIGHTHOUSE TRANSFER.

Notwithstanding another law, the Secretary of Transportation shall transfer without consideration to the city of Berwick, Louisiana, all rights, title, and interest of the United States in the aid to navigation structure known as the Ship Shoal Lighthouse, Louisiana.

Massachusetts. Historic preservation. Real property.

SEC. 28. CAPE COD LIGHTHOUSE AND SANKATY HEAD LIGHT STATION.

(a)(1) Not later than six months after the date of the enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of the Army, the Secretary of the Interior, appropriate State, local, and other governmental entities, and private preserva-

tion groups, shall develop a strategy regarding the relocation, ownership, maintenance, operation, and use of Cape Cod Lighthouse (otherwise known as "Highland Light") in North Truro, Massachusetts, and Sankaty Head Light Station in Nantucket, Massachusetts.

(2) In developing the strategy, the Secretary shall determine whether and under what conditions it would be appropriate to convey the rights, title, and interest of the United States in Cape Cod Lighthouse and Sankaty Head Light Station to other Federal, State, or local government agencies or private preservation groups.

(3) In preparing the strategy with respect to Cape Cod Lighthouse, the Secretary shall consult with the Director of the National Park Service to determine whether the lighthouse should become part of the National Park at Cape Cod National Seashore.

(4) Any strategy developed under this section shall be consistent with—

(A) the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other applicable laws; and

(B) the goal of interpreting and preserving material culture of the United States Coast Guard.

(b) After completion of the strategy under subsection (a), the Secretary of Transportation may convey, by any appropriate means, all right, title, and interest of the United States in either or both of Cape Cod Lighthouse and Sankaty Head Light Station to one or more Federal, State, or local government agencies or appropriate nonprofit private preservation groups. Any conveyance under this subsection shall be made—

(1) without payment of consideration;

(2) subject to appropriate terms and conditions as the Secretary of Transportation considers necessary; and

(3) subject to the condition that if the terms and conditions established by the Secretary are not met, the property conveyed shall revert to the United States.

SEC. 29. TRANSFER OF HECETA HEAD AND CAPE BLANCO LIGHTHOUSES.

Oregon. Historic preservation. Real property.

(a)(1) The Secretary may convey by any appropriate means to the State of Oregon all right, title, and interest of the United States in and to property comprising one or both of the Heceta Head Lighthouse and the Cape Blanco Lighthouse.

(2) The Secretary may identify, describe, and determine property conveyed pursuant to this section.

(b)(1) The conveyance of property pursuant to subsection (a) shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property comprising Heceta Head Lighthouse or Cape Blanco Lighthouse pursuant to this section shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used as a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Heceta Head or Cape Blanco, as applicable.

(3) Any conveyance of property pursuant to this section shall be made subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of Oregon may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property without notice for the purpose of maintaining aids to navigation; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the aids to navigation in use on the property.

(4) The State of Oregon shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section.

(c) For purposes of this section, the term—

(1) "Heceta Head Lighthouse" means the Coast Guard lighthouse located at Heceta Head, Oregon, including—

(A) the classical fresnel lens;

(B) the keeper's dwelling;

(C) several ancillary buildings; and

(D) such land as may be necessary to enable the State of Oregon to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Heceta Head, Oregon;

(2) "Cape Blanco Lighthouse" means the Coast Guard lighthouse located at Cape Blanco, Oregon, including—

(A) the classical fresnel lens;

(B) several ancillary buildings; and

(C) such land as may be necessary to enable the State of Oregon to operate at that lighthouse a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Cape Blanco, Oregon; and

(3) the term "Secretary" means the Secretary of the department in which the Coast Guard is operating.

New Hampshire. Historic preservation. Real property.

SEC. 30. CONVEYANCE OF WHITE ISLAND LIGHTHOUSE.

(a)(1) The Secretary shall convey to the State of New Hampshire, by any appropriate means of conveyance, all rights, title, and interest of the United States in and to property comprising the White Island Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b)(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all rights, title, and interest in and to all such property so conveyed shall immediately revert to the United States if the property so conveyed ceases to be used as a

nonprofit center for public benefit. In connection therewith, the property may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museum, gift shop, open exhibits, meeting rooms, and an office and quarters for personnel in connection with security and administration of the property are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) any light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the State of New Hampshire may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property with notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The State of New Hampshire shall not have any obligation to maintain any active aid-to-navigation equipment on property conveyed pursuant to this section.

(c) For purposes of this section, the term "White Island Lighthouse" means the Coast Guard lighthouse located at White Island, Isles of Shoals, New Hampshire, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such lands as may be necessary to enable the State of New Hampshire to operate at that lighthouse a nonprofit center for public benefit.

SEC. 31. CONVEYANCE OF PORTLAND HEAD LIGHTHOUSE.

Maine.
Historic preservation.
Real property.

(a)(1) The Secretary shall convey to the Town of Cape Elizabeth, Maine, by any appropriate means of conveyance, all right, title, and interest of the United States in and to property comprising the Portland Head Lighthouse.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b)(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration; and

(B) subject to such terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in and to all such property so conveyed shall immediately revert to the

United States if the property so conveyed ceases to be used as a nonprofit center for public benefit. In connection therewith, the property may be used for educational, historic, recreational, and cultural programs open to and for the benefit of the general public. Theme displays, museum, gift shop, open exhibits, meeting rooms, and an office and quarters for personnel in connection with security and administration of the property and the adjacent Fort Williams Park, owned and operated by the Town of Cape Elizabeth, are expressly authorized. Other uses not inconsistent with the foregoing uses are permitted unless the Secretary shall reasonably determine that such uses are incompatible with the historic nature of the property or with other provisions of this section.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) any light, antennas, sound signal, and associated equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States;

(B) the Town of Cape Elizabeth may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes on any portion of such property as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter such property with notice for the purpose of maintaining navigational aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The Town of Cape Elizabeth shall not have any obligation to maintain any active aid-to-navigation equipment on property conveyed pursuant to this section.

(c) For purposes of this section, the term—

(1) "Portland Head Lighthouse" means the Coast Guard lighthouse located at Cape Elizabeth, Maine, including the attached keeper's dwelling, several ancillary buildings, the associated fog signal, and such lands as may be necessary to enable the Town of Cape Elizabeth to operate at that lighthouse a nonprofit center for public benefit; and

(2) "Secretary" means the Secretary of the department in which the Coast Guard is operating.

33 USC 2718 note.

SEC. 32. OIL POLLUTION REPORT.

Not later than one year after the date of enactment of this Act, the Secretary of Transportation shall report to Congress on the effect of section 1018 of the Oil Pollution Act of 1990 (Public Law 101-380; 104 Stat. 484) on the safety of vessels being used to transport oil and the capability of owners and operators to meet their legal obligations in the event of an oil spill.

Safety.

SEC. 33. PASSENGER VESSEL INVESTIGATIONS.

Section 6101 of title 46, United States Code, is amended by adding at the end the following:

"(e)(1) This chapter applies to a marine casualty involving a United States citizen on a foreign passenger vessel operating south of 75 degrees north latitude, west of 35 degrees west longitude, and east of the International Date Line; or operating in the area south of 60 degrees south latitude that—

"(A) embarks or disembarks passengers in the United States; or

"(B) transports passengers traveling under any form of air and sea ticket package marketed in the United States.

"(2) When there is a marine casualty described in paragraph (1) of this subsection and an investigation is conducted, the Secretary shall ensure that the investigation—

"(A) is thorough and timely; and

"(B) produces findings and recommendations to improve safety on passenger vessels.

"(3) When there is a marine casualty described in paragraph (1) of this subsection, the Secretary may—

"(A) seek a multinational investigation of the casualty under auspices of the International Maritime Organization; or

"(B) conduct an investigation of the casualty under chapter 63 of this title.".

SEC. 34. PORTION OF SACRAMENTO RIVER BARGE CANAL DECLARED TO NOT BE NAVIGABLE WATERS OF UNITED STATES.

California.
33 USC 59ee.

For purposes of bridge administration, the Sacramento River Barge Canal, which connects the Sacramento Deep Water Ship Channel with the Sacramento River in West Sacramento, Yolo County, California, is declared to not be navigable waters of the United States for purposes of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) from the eastern boundary of the Port of Sacramento to a point 1,200 feet east of the William G. Stone Lock.

SEC. 35. SENSE OF THE CONGRESS RELATING TO THE ROLE OF THE COAST GUARD IN THE PERSIAN GULF CONFLICT.

(a) The Congress finds that—

(1) members of the Coast Guard played an important role in the Persian Gulf Conflict;

(2) nine hundred and fifty members of the Coast Guard Reserve were called to active duty during the Persian Gulf Conflict and participated in various activities, including vessel inspection, port safety and security, and supervision of loading and unloading hazardous military cargo;

(3) members of Coast Guard Law Enforcement Detachments led or directly participated in approximately 60 percent of the six hundred vessel boardings in support of maritime interception operations in the Middle East;

(4) ten Coast Guard Law Enforcement Teams were deployed for enforcement of United Nations sanctions during the Persian Gulf Conflict;

(5) over three hundred men and women in the Coast Guard Vessel Inspection Program participated in the inspection of military sealift vessels and facilitated the efficient transportation of hazardous materials, munitions, and other supplies to the combat zone;

(6) members of the Coast Guard served in the Joint Information Bureau Combat Camera and Public Affairs staffs;

(7) approximately five hundred and fifty members of the Coast Guard served in port security units in the Persian Gulf area, providing port security and waterside protection for ships unloading essential military cargo;

(8) the Coast Guard Environmental Response Program headed the international Interagency Oil Pollution Response Advisory Team for cleanup efforts relating to the massive oil spill off the coasts of Kuwait and Saudi Arabia;

(9) the Coast Guard Research and Development Center developed a deployable positioning system for the Explosive Ordnance Disposal Area Search Detachment, saving the detachment time and thousands of dollars, while also increasing the effectiveness and efficiency of the minesweeping and ordnance disposal operations in the Persian Gulf area; and

(10) Coast Guard units remain in the Persian Gulf area and continue to provide essential support including both port security and law enforcement.

(b) The Congress commends the Coast Guard for the important role it played in the Persian Gulf Conflict and urges the people of the United States to recognize that role.

SEC. 36. BRIDGE ACROSS WAPPINGER CREEK, NEW YORK.

Notwithstanding any other provision of law, the railroad bridge across Wappinger Creek, mile 0.0. at New Hamburg, New York, is hereby determined to provide for the reasonable needs of navigation under the Act of March 3, 1899 (33 U.S.C. 401), section 1 of the Act of March 23, 1906 (33 U.S.C. 491), and section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)), at the closed position and need not be maintained as a movable structure.

SEC. 37. VESSEL SAFETY NEAR STRAIT OF JUAN DE FUCA.

The Secretary of Transportation, through the Secretary of State, is directed to enter into discussions with their appropriate Canadian counterparts to examine alternatives to improve commercial vessel traffic safety off the entrance to the Strait of Juan de Fuca.

SEC. 38. TRANSFER OF CERTAIN PROPERTY AT FOLLY BEACH, SOUTH CAROLINA.

(a) Notwithstanding another law, the Secretary of Transportation shall transfer without consideration to the Charleston County Park and Recreation Commission all rights, title, and interest of the United States in Coast Guard property located at Folly Island, Charleston County, South Carolina, described in subsection (b) subject to existing easements and restrictions of record. The transferee shall pay for all conveyance costs.

(b) The property to be transferred under subsection (a) is described as commencing at a point in the center of the United States Army Observation Steel Tower (32 degrees 41 minutes 13.590 seconds north latitude, 79 degrees 53 minutes 16.783 seconds west longitude), and running from there due south 261.75 feet to a point at 32 degrees 41 minutes 11 seconds north latitude, 79 degrees 53 minutes 16.783 seconds west longitude, for a point of beginning; running from there, due east along north latitude 32 degrees 41 minutes 11 seconds 854 feet, more or less, to a point in the low water line; from there, running southerly and southwesterly along the meanderings of such low water line 4650 feet, more or less, to the intersection of such low water line with west longitude 79 degrees 53 minutes 30

seconds; from there, running due north along such longitude 3380 feet, more or less, to the intersection of such longitude with north latitude 32 degrees 41 minutes 11 seconds; from there, running due east along such latitude 1129.64 feet to the point of beginning, containing 143 acres, more or less (part high and part submerged lands); together with the 2300 volt power line, and all power line rights-of-way connected therewith, extending from the Government's property at the east end of Folly Island to such power line's connection with the South Carolina Power Company's power line at Folly Beach.

SEC. 39. REQUIREMENT TO REPORT ON CERTAIN POLLUTION INCIDENTS.

Section 7 of the Act to Prevent Pollution from Ships (33 U.S.C. 1906) is amended to read as follows:

"SEC. 7. (a) The master, person in charge, owner, charterer, manager, or operator of a ship involved in an incident shall report the incident in the manner prescribed by Article 8 of the Convention in accordance with regulations promulgated by the Secretary for that purpose.

"(b) The master or person in charge of—

"(1) a ship of United States registry or nationality, or operated under the authority of the United States, wherever located;

"(2) another ship while in the navigable waters of the United States; or

"(3) a sea port or oil handling facility subject to the jurisdiction of the United States,

shall report a discharge, probable discharge, or presence of oil in the manner prescribed by Article 4 of the International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990 (adopted at London, November 30, 1990), in accordance with regulations promulgated by the Secretary for that purpose.".

SEC. 40. AMENDMENTS TO IMPLEMENT INTERNATIONAL SALVAGE CONVENTION, 1989.

(a) Section 3 of the Act of August 1, 1912 (46 App. U.S.C. 729), is amended by striking all after "fair share of the" and substituting "payment awarded to the salvor for salving the vessel or other property or preventing or minimizing damage to the environment.".

(b) Section 5 of the Act of August 1, 1912 (46 App. U.S.C. 731), is amended by striking "Nothing in this Act" and substituting "Nothing in sections 1, 3, and 4 of this Act and section 2304 of title 46, United States Code,".

SEC. 41. CERTIFICATE OF DOCUMENTATION FOR MAYFLOWER II.

(a) Notwithstanding section 12106 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade of the United States for the vessel MAYFLOWER II, owned by Plimoth Plantation, Inc., a corporation under the laws of Massachusetts.

(b)(1) The Secretary may exempt the vessel MAYFLOWER II from compliance with—

(A) any requirement relating to inspection or safety under title 46, United States Code; and

(B) any requirement relating to navigation under title 33, United States Code.

(2) If the Secretary exempts the vessel from any requirement under paragraph (1), the Secretary may establish an alternative requirement designed to provide for the safety of the passengers and crew of the vessel.

South Carolina.

SEC. 42. JOHN F. LIMEHOUSE MEMORIAL BRIDGE.

Notwithstanding another law, the John F. Limehouse Memorial Bridge across the Atlantic Intracoastal Waterway in Charleston County, South Carolina, is deemed an unreasonable obstruction to navigation.

Reports.

SEC. 43. OREGON OIL SPILL RESPONSE STUDY.

Not later than one year after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report examining the adequacy of pre-positioned oil spill response equipment to respond to potential damage caused by spills upriver on the Columbia River where commercial and government marine vessel activity takes place.

5 USC note prec. 7901.

SEC. 44. TRANSPORTATION SUBSIDY.

The Department of Transportation may include military personnel of the Coast Guard in any program in which the Department participates under section 629 of the Treasury, Postal Service and General Government Appropriations Act, 1991, Public Law 101-509, notwithstanding section 629(c)(2) of that Act.

SEC. 45. CHATHAM HARBOR, MASSACHUSETTS.

Not later than thirty days after the date of enactment of this Act, the Commandant of the Coast Guard shall provide to the United States Army Corps of Engineers New England Division for incorporation into their Feasibility Study on Improvement Dredging in Chatham Harbor, the following information:

(1) a description of the current and projected future navigational hazards in Chatham Harbor caused by shoaling in and around Aunt Lydia's Cove;

(2) the current and projected impacts, of these navigational hazards on the Coast Guard's missions, including:

(A) impacts on search and rescue responses;

(B) impacts on the area of response;

(C) types and costs of any special equipment needed to navigate the channel; and

(D) potential impacts on boater safety; and

(3) the benefits to local boaters and the Coast Guard that would result from improved navigation.

SEC. 46. JONES ACT WAIVERS FOR CERTAIN VESSELS.

Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of enactment of this Act, the Secretary of Transportation may issue a certificate of documentation for the following vessels:

(1) MISS LELIA, United States official number 577213.

(2) BILLFISH, United States official number 920896.

(3) MARSH GRASS III, United States official number 963616.

SEC. 47. NATIONAL MARITIME ENHANCEMENT INSTITUTES.

Section 8(e) of the Act entitled "An Act to authorize appropriations for fiscal year 1990 for the Maritime Administration, and for other purposes", approved October 13, 1989 (46 App. U.S.C. 1121-2(e)), is amended by striking "shall not exceed $100,000" and substituting "by the Secretary shall not exceed $500,000".

SEC. 48. ACQUISITION OF SPACE IN VIRGINIA.

The Secretary of Commerce shall acquire space from the administrator of General Services in the area of Newport News-Norfolk, Virginia, for use for consolidating and meeting the long-term space needs of the National Oceanic and Atmospheric Administration in a cost effective manner. In order to acquire this space, the Administrator of General Services may, with the consent of the Secretary of Commerce, exchange real property owned by the Department of Commerce for other real property, including improvements to that property, in that area.

SEC. 49. ACQUISITION OF SPACE IN ALASKA.

The Secretary of Commerce shall acquire space from the administrator of General Services on Near Island in Kodiak, Alaska, that meets the long-term space needs of the National Oceanic and Atmospheric Administration, if the maximum annul cost of leasing the building in which the space is located is not more than $1,000,000.

SEC. 50. TRANSFER AT JUNEAU, ALASKA.

(a) Notwithstanding another provision of law, the Secretary of Transportation shall transfer without consideration to the Secretary of Commerce all rights, title, and interest of the United States in Coast Guard property and improvements at Auke Cape, Alaska (Lot 2 on United States Survey Number 3811 comprising 28.16 acres), located approximately 11 miles northwest of Juneau, Alaska.

(b) The Secretary of Commerce shall make the property transferred under this section available to the National Oceanic and Atmospheric Administration.

SEC. 51. STUDY OF JOINT ENFORCEMENT OF MARINE SANCTUARY REGULATIONS.

Reports.
16 USC 1437 note.

Not later than one year after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Commerce shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation a joint report describing methods by which Coast Guard enforcement efforts under the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) may be enhanced and coordinated with those of the National Oceanic and Atmospheric Administration. The report shall—

(1) evaluate the ability of the Coast Guard to address key enforcement problems, which the Secretary of Commerce shall identify, for each national marine sanctuary;

(2) propose procedures by which the Coast Guard and the National Oceanic and Atmospheric Administration may coordinate their efforts in order to improve and maximize effective enforcement of marine sanctuary regulations; and

(3) recommend appropriate levels of Coast Guard participation in the efforts.

33 USC 59ff.

SEC. 52. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF PELICAN ISLAND, TEXAS.

(a) Subject to the provisions of subsections (b), (c), and (d) of this section, those portions of Pelican Island, Texas, which are not submerged and which are within the following property descriptions, are declared to be nonnavigable waters of the United States:

(1) A 1,903.6655 acre tract of land situated in Galveston County, Texas, within the Galveston City Limits and on Pelican Island and being more particularly described by metes and bounds as follows, with all control referred to the Texas State Plane Coordinate System, Lambert Projection, South Central Zone:

Beginning at a United States Corps of Engineers concrete monument with a brass cap, being Corps of Engineers station 40+00 and being located on the southwesterly line of a United States Government Reservation and having Texas State Plane Coordinate Value of X=3,340,636.67, Y=568,271.91;

thence south 57 degrees 00 minutes 04 seconds east, 501.68 feet to a point for corner;

thence north 37 degrees 18 minutes 11 seconds east, 2,802.65 feet to a point for corner;

thence north 79 degrees 03 minutes 47 seconds east, 798.87 feet to a point for corner;

thence north 15 degrees 34 minutes 53 seconds east, 2,200.00 feet to a point for corner located on the north harbor line of Pelican Island;

thence along said north harbor line south 63 degrees 00 minutes 45 seconds east 306.04 feet to a point for corner;

thence leaving said harbor line south 15 degrees 34 minutes 53 seconds west, at 1,946.05 feet past the northwesterly corner of Seawolf Park, in all a total distance of 2,285.87 feet to the southwesterly corner of Seawolf Park;

thence along the southeasterly line of said Seawolf Park, south 74 degrees 25 minutes 07 seconds east, 421.01 feet to a point for corner;

thence continuing along said line south 65 degrees 12 minutes 37 seconds east, 93.74 feet to a point for corner;

thence south 63 degrees 00 minutes 45 seconds east, 800.02 feet to a point for corner on Galveston Channel Harbor Line;

thence along said Galveston Channel Harbor Line as follows:

south 15 degrees 14 minutes 01 second west, 965.95 feet to a point,

south 74 degrees 26 minutes 20 seconds east, 37.64 feet to a point,

south 15 degrees 33 minutes 40 seconds west, 2,779.13 feet to a point,

south 36 degrees 18 minutes 31 seconds west, 1,809.93 feet to a point,

south 36 degrees 24 minutes 57 seconds west, 190.98 feet to a point,

south 40 degrees 37 minutes 46 seconds west, 558.04 feet to a point,

south 49 degrees 02 minutes 41 seconds west, 558.16 feet to a point,
south 53 degrees 15 minutes 03 seconds west, 1,557.49 feet to a point,
south 55 degrees 34 minutes 51 seconds west, 455.45 feet to a point,
south 60 degrees 14 minutes 23 seconds west, 455.37 feet to a point,
south 62 degrees 34 minutes 14 seconds west, 426.02 feet to a point,
south 68 degrees 11 minutes 32 seconds west, 784.25 feet to a point,
south 79 degrees 26 minutes 20 seconds west, 784.21 feet to a point,
south 85 degrees 03 minutes 42 seconds west, 761.77 feet to a point,
south 86 degrees 42 minutes 35 seconds west, 1,092.97 feet to a point,
north 89 degrees 59 minutes 40 seconds west, 827.53 feet to a point,
north 88 degrees 20 minutes 24 seconds west, 1,853.01 feet to a point,
south 62 degrees 11 minutes 55 seconds west, 45.94 feet to a point,
north 88 degrees 04 minutes 15 seconds west, 653.80 feet to a point, and
north 78 degrees 19 minutes 36 seconds west, 1,871.96 feet to a point for corner located on the Mean High Water Line (0.88 foot contour line, above sea level datum);

thence leaving said Harbor Line and following the meanders of said Mean High Water Line along Galveston Bay as follows:

north 26 degrees 26 minutes 35 seconds west, 1,044.28 feet to a point,
north 25 degrees 25 minutes 56 seconds east, 242.71 feet to a point,
north 16 degrees 42 minutes 01 second west, 270.77 feet to a point,
north 10 degrees 04 minutes 05 seconds west, 508.36 feet to a point,
north 11 degrees 21 minutes 01 second west, 732.39 feet to a point,
north 03 degrees 45 minutes 31 seconds west, 446.34 feet to a point,
north 03 degrees 08 minutes 15 seconds west, 566.01 feet to a point,
north 02 degrees 48 minutes 50 seconds west, 288.02 feet to a point,
north 06 degrees 53 minutes 40 seconds west, 301.48 feet to a point,
north 19 degrees 04 minutes 56 seconds east, 407.38 feet to a point,
north 12 degrees 28 minutes 05 seconds east, 346.79 feet to a point,
north 01 degrees 30 minutes 23 seconds east, 222.91 feet to a point, and

north 08 degrees 08 minutes 07 seconds east, 289.74 feet to a point for corner;

thence leaving said Mean High Water Line north 84 degrees 43 minutes 15 seconds east 10,099.75 feet to the point of beginning and containing 1,903.6655 acres of land.

(2) All of that certain tract of 206.6116 acres of land, being part of and out of Pelican Island, in the City of Galveston, Galveston County, Texas, and being more particularly described by metes and bounds as follows:

Beginning at the most northwesterly corner of the Pelican Spit Military Reservation, as described in the Deed from the City of Galveston unto the United States of America, dated April 29, 1907, and recorded in Book 221, at Page 416 of the Office of the County Clerk of Galveston County, Texas, said point being Pelican Island Coordinates N=15,171.20 and E=11,533.92;

thence north 29 degrees 11 minutes 52 seconds east, a distance of 100.00 feet to a 2-inch iron pipe for corner, said corner being the most southerly corner of the herein described tract, and place of beginning:

thence north 60 degrees 48 minutes 08 seconds west, a distance of 3,000.00 feet to a 2-inch iron pipe for corner;

thence north 29 degrees 11 minutes 52 seconds east, a distance of 3,000.00 feet to a point for corner;

thence south 60 degrees 48 minutes 08 seconds east, a distance of 3,000.00 feet to a point for corner;

thence south 29 degrees 11 minutes 52 seconds west, a distance of 3,000.00 feet to the place of beginning, containing 206.6116 acres.

(3) Beginning at point "H" (point "H" is also known as point "3" on Pelican Island Harbor Line), the coordinates of which are South 8,827.773 meters and East 11,483.592 meters, on Pelican Island proposed harbor line;

thence with harbor line north 61 degrees west 800 feet;

thence south 17 degrees 35 minutes 38 seconds west 2,200 feet;

thence south 61 degrees east 800 feet to proposed harbor line;

thence with proposed harbor line north 17 degrees 35 minutes 38 seconds east to the place of beginning and containing 39.88 acres, more or less, together with all buildings, utilities, and improvements thereon.

(4) Beginning at a point in the westerly property line of the tract described in paragraph (3), said point being 285.00 feet bearing north 17 degrees 35 minutes 38 seconds east from the southwest corner of said tract;

thence north 72 degrees 24 minutes 22 seconds west, a distance of 346.00 feet;

thence north 14 degrees 58 minutes 09 seconds east, a distance of 610.00 feet;

thence south 72 degrees 24 minutes 22 seconds east, a distance of 374.00 feet;

thence south 17 degrees 35 minutes 38 seconds west, a distance of 609.36 feet to the point of beginning and containing 5.036 acres of land, more or less.

(5) Beginning at the southwest corner of the tract described in paragraph (3);

thence north 63 degrees 11 minutes 52 seconds west, a distance of 93.74 feet to a point for corner;

thence north 72 degrees 24 minutes 22 seconds west, a distance of 421.01 feet to a point for corner;

thence north 17 degrees 35 minutes 38 seconds east, a distance of 339.82 feet to a point for corner;

thence south 82 degrees 24 minutes 22 seconds east, a distance of 86.03 feet to a point for corner;

thence north 77 degrees 11 minutes 26 seconds east, a distance of 89.12 feet to a point for corner in the westerly line of the tract described in paragraph (4);

thence south 14 degrees 58 minutes 09 seconds west, with said westerly line, a distance of 130.00 feet to a point for corner, the southwest corner of the tract described in paragraph (4);

thence south 72 degrees 24 minutes 22 seconds east, with the southerly line of the tract described in paragraph (4), a distance of 346.00 feet to a point for corner, the southeast corner of the tract described in paragraph (4);

thence south 17 degrees 35 minutes 38 seconds west, with the westerly line of the tract described in paragraph (3), a distance of 285.00 feet to a point of beginning, containing 3.548 acres of land, more or less.

(b) Notwithstanding the declaration under subsection (a), the following portions of Pelican Island, Texas, within those lands described in subsection (a) shall remain navigable waters of the United States:

(1) Out of the Eneas Smith Survey, A-190, on Pelican Island, the 2.7392 acre tract, the 3.2779 acre tract, and the 2.8557 acre tract described in the Perpetual Easements dated May 9, 1975, from Mitchell Development Corporation of the Southwest to the United States, recorded on pages 111 through 122 of Book 2571 of the Real Property Records in the Office of the County Clerk of Galveston County, Texas.

(2) Out of the Eneas Smith Survey, A-190, on Pelican Island, the 1.8361 acre tract of land described in Exhibit "B" of the Specific Location of Pipeline Easement dated July 30, 1975, by and between the Mitchell Development Corporation of the Southwest, the United States of America, and Chase Manhattan Bank (National Association), recorded on pages 9 through 14 of Book 2605 of the Real Property Records in the Office of the County Clerk of Galveston County, Texas.

(3) For each of the four tracts of land described in paragraphs (1) and (2) of this subsection, a 40-foot wide strip of land along, adjacent and parallel to, and extending the full length of, the easterly boundary line of the tract and a 40-foot wide strip of land along, adjacent and parallel to, and extending the full length of, the westerly boundary line of the tract.

(c) The declaration under subsection (a) shall apply only to those parts of the areas described in subsection (a) of this section and not described in subsection (b) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures or other permanent physical improvements, including marina facilities. All such work is subject to applicable Federal statutes and regulations, including sections 9 and 10 of the Act of March 3, 1899

(commonly referred to as the "Rivers and Harbors Appropriation Act of 1899" (33 U.S.C. 401 and 403)), section 404 of the Federal Water Pollution Control Act and the National Environmental Policy Act of 1969.

(d) If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (a) of this section and not described in subsection (b) of this section is not bulkheaded or filled or occupied by permanent structures or other permanent physical improvements, including marina facilities, in accordance with the requirements set out in subsection (c) of this section, or if work is not commenced within five years after issuance of any permits required to be obtained under subsection (c), then the declaration of nonnavigability for such area or part thereof shall expire.

SEC. 53. DISCLOSURE REGARDING RECREATIONAL VESSEL FEE.

Section 2110(b) of title 46, United States Code, is amended by adding at the end the following new paragraph:

"(5) The Secretary shall provide to each person who pays a fee or charge under this subsection a separate document on which appears, in readily discernible print, only the following statement: 'The fees for which this document was provided was established under the Omnibus Budget Reconciliation Act of 1990. Persons paying this fee can expect no increase in the quantity, quality, or variety of services the person receives from the Coast Guard as a result of that payment.'."

SEC. 54. SENSE OF THE CONGRESS ON COAST GUARD RESCUE EFFORTS.

(a) The Congress finds that—

(1) during the month of October, Air Station Cape Cod experienced one of the most intense periods of search and rescue activities, including fifty-one search and rescue cases of which twenty-seven were in the last ten days of the month;

(2) immediately prior to the winter storm that ravaged Cape Cod from October 28 to November 1, with average seas of 35–40 feet and winds exceeding eighty knots, coastal small boat station personnel on Cape Cod and the Islands of Nantucket and Martha's Vineyard successfully worked with the local communities and the fishing industry to secure the small coastal ports to minimize damage to vessels and property;

(3) Group Portland, Group Boston, and Group Woods Hole units suffered significant damage to coastal small boat stations, lighthouses, and other aids to navigation but this damage did not affect operational readiness and Coast Guard boats and aircraft were prepared to respond to emergencies;

(4) during the five-day period from October 28 to November 1, the Coast Guard Cutter GENETIN, Coast Guard Cutter BEAR and Coast Guard helicopters stationed at Elizabeth City, North Carolina participated in five offshore rescue operations that saved twenty-one lives;

(5) Coast Guard flight crews operating from Elizabeth City logged fifty-six hours of flight time during the seventy-two-hour-period when Hurricane Grace buffeted the North Carolina Coast;

(6) The Coast Guard performed these search and rescue operations while fulfilling other important missions including the

monitoring of a sulfuric acid spill and a sensitive law enforcement operation.

(b) The Congress commends the Coast Guard units involved for their remarkable skill, performance and dedication in protecting life and property and urges the people of the United States to recognize this job well done.

SEC. 55. SENSE OF THE CONGRESS ON RECREATIONAL BOAT FEES.

(a) The Congress finds that—

(1) under section 9701 of title 31, United States Code, and section 664 of title 14, United States Code, Coast Guard user fees must be fair, based on the cost to the Coast Guard of providing services or things of value, based on the value of services or things of value provided by the Coast Guard, and based on a valid public policy or interest;

(2) the Coast Guard fee imposed upon recreational boaters under section 2110(b) of title 46, United States Code, was established under the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1388-1397);

(3) recreational boaters who are required to pay this fee cannot expect to receive any additional service in return for payment of the fee;

(4) recreational boaters already pay a motorboat fuel tax that contributes to the Coast Guard budget; and

(5) the fee imposed upon recreational boaters will not be directly available to the Coast Guard to increase services that would benefit recreational boaters.

(b) It is the sense of Congress that the requirement that the Coast Guard collect a fee from recreational boaters under section 2110(b) of title 46, United States Code, should be repealed immediately upon enactment of an offsetting receipts provision to comply with the requirements of the Omnibus Budget Reconciliation Act of 1990.

SEC. 56. COOPERATIVE INSTITUTE OF FISHERIES OCEANOGRAPHY. Establishment.

(a) In recognition of the memorandum of understanding of March 2, 1989, regarding the Cooperative Institute of Fisheries Oceanography (hereinafter in this section referred to as the "Institute"), the Institute is established within the National Oceanic and Atmospheric Administration, in partnership with Duke University and the Consolidated University of North Carolina.

(b) There is authorized to be appropriated to the Secretary of Commerce $525,000 for fiscal year 1992 and $546,000 for fiscal year 1993, to remain available until expended, for use for activities of the Institute.

(c) Amounts appropriated pursuant to subsection (b) may be used for—

(1) administration of the Institute;

(2) research conducted by the Institute; and

(3) preparation of a five-year plan for research and for development of the Institute.

(d) Within one year of the date of the enactment of this section, the Institute shall submit to the Congress and the Under Secretary of Commerce for Oceans and Atmosphere the plan developed pursuant to subsection (c)(3).

SEC. 57. NATIONAL DEFENSE RESERVE FLEET.

Section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744) is amended by adding at the end the following new subsection:

"(d) READY RESERVE FORCE MANAGEMENT.—

"(1) MINIMUM REQUIREMENTS.—To ensure the readiness of vessels in the Ready Reserve Force component of the National Defense Reserve Fleet, the Secretary of Transportation shall, at a minimum—

"(A) maintain all of the vessels in a manner that will enable each vessel to be activated within a period specified in plans for mobilization of the vessels;

"(B) activate and conduct sea trials on each vessel at least once every twenty-four months;

"(C) maintain in an enhanced activation status those vessels that are scheduled to be activated within 5 days;

"(D) locate those vessels that are scheduled to be activated within 5 days near embarkation ports specified for those vessels; and

"(E) notwithstanding section 2109 of title 46, United States Code, have each vessel inspected by the Secretary of the department in which the Coast Guard is operating to determine if the vessel meets the safety standards that would apply under part B of subtitle II of that title if the vessel were not a public vessel.

"(2) VESSEL MANAGERS.—

"(A) ELIGIBILITY FOR CONTRACT.—A person, including a shipyard, is eligible for a contract for the management of a vessel in the Ready Reserve Force if the Secretary determines, at a minimum, that the person has—

"(i) experience in the operation of commercial-type vessels or public vessels owned by the United States Government; and

"(ii) the management capability necessary to operate, maintain, and activate the vessel at a reasonable price.

"(B) CONTRACT REQUIREMENT.—The Secretary of Transportation shall include in each contract for the management of a vessel in the Ready Reserve Force a requirement that each seaman who performs services on

any vessel covered by the contract hold the license or merchant mariner's document that would be required under chapter 71 or chapter 73 of title 46, United States Code, for a seaman performing that service while operating the vessel if the vessel were not a public vessel.".

Approved December 19, 1991.

LEGISLATIVE HISTORY—H.R. 1776 (S. 1297):

HOUSE REPORTS: No. 102-132 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 102-169 accompanying S. 1297 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 137 (1991):
July 18, considered and passed House.
Nov. 21, considered and passed Senate, amended, in lieu of S. 1297.
Nov. 25, House concurred in Senate amendment with an amendment.
Nov. 27, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 27 (1991):
Dec. 19, Presidential statement.

○

Public Law 102-242
102d Congress

An Act

Dec. 19, 1991
[S. 543]

To require the least-cost resolution of insured depository institutions, to improve supervision and examinations, to provide additional resources to the Bank Insurance Fund, and for other purposes.

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

Federal Deposit Insurance Corporation Improvement Act of 1991.
12 USC 1811 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Deposit Insurance Corporation Improvement Act of 1991".

TITLE I—SAFETY AND SOUNDNESS

Subtitle A—Deposit Insurance Funds

SEC. 101. FUNDING FOR THE FEDERAL DEPOSIT INSURANCE FUNDS.

Section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)) is amended by striking "$5,000,000,000" and inserting "$30,000,000,000".

SEC. 102. LIMITATION ON OUTSTANDING BORROWING.

(a) IN GENERAL.—Section 15(c) of the Federal Deposit Insurance Act (12 U.S.C. 1825(c)) is amended by striking paragraphs (5) and (6) and inserting the following new paragraphs:

"(5) MAXIMUM AMOUNT LIMITATION ON OUTSTANDING OBLIGATIONS.—Notwithstanding any other provisions of this Act, the Corporation may not issue or incur any obligation, if, after issuing or incurring the obligation, the aggregate amount of obligations of the Bank Insurance Fund or Savings Association Insurance Fund, respectively, outstanding would exceed the sum of—

"(A) the amount of cash or the equivalent of cash held by the Bank Insurance Fund or Savings Association Insurance Fund, respectively;

"(B) the amount which is equal to 90 percent of the Corporation's estimate of the fair market value of assets held by the Bank Insurance Fund or the Savings Association Insurance Fund, respectively, other than assets described in subparagraph (A); and

"(C) the total of the amounts authorized to be borrowed from the Secretary of the Treasury pursuant to section 14(a).

"(6) OBLIGATION DEFINED.—

"(A) IN GENERAL.—For purposes of paragraph (5), the term 'obligation' includes—

"(i) any guarantee issued by the Corporation, other than deposit guarantees;

"(ii) any amount borrowed pursuant to section 14; and

"(iii) any other obligation for which the Corporation has a direct or contingent liability to pay any amount.

"(B) VALUATION OF CONTINGENT LIABILITIES.—The Corporation shall value any contingent liability at its expected cost to the Corporation.".

(b) GAO REPORTS.— 12 USC 1825 note.

(1) QUARTERLY REPORTING.—The Comptroller General of the United States shall submit a report each calendar quarter on the Federal Deposit Insurance Corporation's compliance with section 15(c)(5) of the Federal Deposit Insurance Act for the preceding quarter to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) ANALYSES TO BE INCLUDED.—Each report submitted under paragraph (1) shall include—

(A) an analysis of the performance of the Federal Deposit Insurance Corporation in meeting any repayment schedule under section 14(c) of the Federal Deposit Insurance Act (as added by section 103 of this Act); and

(B) an analysis of the actual recovery on asset sales compared to the estimated fair market value of the assets as determined for the purposes of section 15(c)(5)(B) of such Act.

(c) TECHNICAL AND CONFORMING AMENDMENT.—Section 15(c) of the Federal Deposit Insurance Act (12 U.S.C. 1825(c)) is amended by striking paragraph (7).

SEC. 103. REPAYMENT SCHEDULE.

(a) IN GENERAL.—Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended by adding at the end the following new subsection:

"(c) REPAYMENT SCHEDULES REQUIRED FOR ANY BORROWING.—

"(1) IN GENERAL.—No amount may be provided by the Secretary of the Treasury to the Corporation under subsection (a) unless an agreement is in effect between the Secretary and the Corporation which—

"(A) provides a schedule for the repayment of the outstanding amount of any borrowing under such subsection; and

"(B) demonstrates that income to the Corporation from assessments under this Act will be sufficient to amortize the outstanding balance within the period established in the repayment schedule and pay the interest accruing on such balance.

"(2) CONSULTATION WITH AND REPORT TO CONGRESS.—The Secretary of the Treasury and the Corporation shall—

"(A) consult with the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the terms of any repayment schedule agreement described in paragraph (1) relating to repayment, including terms relating to any emergency special assessment under section 7(b)(7); and

"(B) submit a copy of each repayment schedule agreement entered into under paragraph (1) to the Committee on

Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate before the end of the 30-day period beginning on the date any amount is provided by the Secretary of the Treasury to the Corporation under subsection (a).".

(b) EMERGENCY SPECIAL ASSESSMENTS.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively; and

(2) by inserting after paragraph (6) the following new paragraph:

"(7) EMERGENCY SPECIAL ASSESSMENTS.—In addition to the other assessments imposed on insured depository institutions under this subsection, the Corporation may impose 1 or more special assessments on insured depository institutions in an amount determined by the Corporation if the amount of any such assessment—

"(A) is necessary—

"(i) to provide sufficient assessment income to repay amounts borrowed from the Secretary of the Treasury under section 14(a) in accordance with the repayment schedule in effect under section 14(c) during the period with respect to which such assessment is imposed;

"(ii) to provide sufficient assessment income to repay obligations issued to and other amounts borrowed from Bank Insurance Fund members under section 14(d); or

"(iii) for any other purpose the Corporation may deem necessary; and

"(B) is allocated between Bank Insurance Fund members and Savings Association Insurance Fund members in amounts which reflect the degree to which the proceeds of the amounts borrowed are to be used for the benefit of the respective insurance funds.".

SEC. 104. RECAPITALIZING THE BANK INSURANCE FUND.

(a) IN GENERAL.—Section 7(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(C)) is amended to read as follows:

"(C) ASSESSMENT RATES FOR BANK INSURANCE FUND MEMBERS.—

"(i) IN GENERAL.—If the reserve ratio of the Bank Insurance Fund equals or exceeds the fund's designated reserve ratio under subparagraph (B), the Board of Directors shall set semiannual assessment rates for members of that fund as appropriate to maintain the reserve ratio at the designated reserve ratio.

"(ii) SPECIAL RULES FOR RECAPITALIZING UNDERCAPITALIZED FUND.—If the reserve ratio of the Bank Insurance Fund is less than the designated reserve ratio under subparagraph (B), the Board of Directors shall set semiannual assessment rates for members of that fund—

"(I) that are sufficient to increase the reserve ratio for that fund to the designated reserve ratio not later than 1 year after such rates are set; or

"(II) in accordance with a schedule promulgated by the Corporation under clause (iii).

"(iii) RECAPITALIZATION SCHEDULES.—For purposes of clause (ii)(II), the Corporation shall, by regulation, promulgate a schedule that specifies, at semiannual intervals, target reserve ratios for the Bank Insurance Fund, culminating in a reserve ratio that is equal to the designated reserve ratio no later than 15 years after the date on which the schedule becomes effective. Regulations.

"(iv) AMENDING SCHEDULE.—The Corporation may, by regulation, amend a schedule promulgated under clause (iii), but such an amendment may not extend the date for achieving the designated reserve ratio.".

(b) ASSESSMENT RATE CHANGES.—Section 7(b)(1)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(A)) is amended by striking clause (iii) and inserting the following:

"(iii) RATE CHANGES.—The Corporation shall notify each insured depository institution of that institution's semiannual assessment. The Corporation may establish and, from time to time, adjust the assessment rates for such institutions.".

SEC. 105. BORROWING FOR BIF FROM BIF MEMBERS.

Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended by inserting after subsection (c) (as added by section 103 of this subtitle) the following new subsection:

"(d) BORROWING FOR BIF FROM BIF MEMBERS.—

"(1) BORROWING AUTHORITY.—The Corporation may issue obligations to Bank Insurance Fund members, and may borrow from Bank Insurance Fund members and give security for any amount borrowed, and may pay interest on (and any redemption premium with respect to) any such obligation or amount to the extent—

"(A) the proceeds of any such obligation or amount are used by the Corporation solely for purposes of carrying out the Corporation's functions with respect to the Bank Insurance Fund; and

"(B) the terms of the obligation or instrument limit the liability of the Corporation or the Bank Insurance Fund for the payment of interest and the repayment of principal to the amount which is equal to the amount of assessment income received by the Fund from assessments under section 7.

"(2) LIMITATIONS ON BORROWING.—

"(A) APPLICABILITY OF PUBLIC DEBT LIMIT.—For purposes of the public debt limit established in section 3101(b) of title 31, United States Code, any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall be considered to be an obligation to which such limit applies.

"(B) APPLICABILITY OF FDIC BORROWING LIMIT.—For purposes of the dollar amount limitation established in section 14(a) of the Federal Deposit Insurance Act (12 U.S.C. 1824(a)), any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall be considered to be an amount borrowed from the Treasury under such section.

"(C) INTEREST RATE LIMIT.—The rate of interest payable in connection with any obligation issued, or amount borrowed, by the Corporation under paragraph (1) shall not exceed an amount determined by the Secretary of the Treasury,

taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.

"(D) OBLIGATIONS TO BE HELD ONLY BY BIF MEMBERS.—The terms of any obligation issued by the Corporation under paragraph (1) shall provide that the obligation will be valid only if held by a Bank Insurance Fund Member.

"(3) LIABILITY OF BIF.—Any obligation issued or amount borrowed under paragraph (1) shall be a liability of the Bank Insurance Fund.

"(4) TERMS AND CONDITIONS.—Subject to paragraphs (1) and (2), the Corporation shall establish the terms and conditions for obligations issued or amounts borrowed under paragraph (1), including interest rates and terms to maturity.

"(5) INVESTMENT BY BIF MEMBERS.—

"(A) AUTHORITY TO INVEST.—Subject to subparagraph (B) and notwithstanding any other provision of Federal law or the law of any State, any Bank Insurance Fund member may purchase and hold for investment any obligation issued by the Corporation under paragraph (1) without limitation, other than any limitation the appropriate Federal banking agency may impose specifically with respect to such obligations.

"(B) INVESTMENT ONLY FROM CAPITAL AND RETAINED EARNINGS.—Any Bank Insurance Fund member may purchase obligations or make loans to the Corporation under paragraph (1) only to the extent the purchase money or the money loaned is derived from the member's capital or retained earnings.

"(6) ACCOUNTING TREATMENT.—In accounting for any investment in an obligation purchased from, or any loan made to, the Corporation for purposes of determining compliance with any capital standard and preparing any report required pursuant to section 7(a), the amount of such investment or loan shall be treated as an asset.".

Subtitle B—Supervisory Reforms

SEC. 111. IMPROVED EXAMINATIONS.

(a) IN GENERAL.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by inserting after subsection (c) the following new subsection:

"(d) ANNUAL ON-SITE EXAMINATIONS OF ALL INSURED DEPOSITORY INSTITUTIONS REQUIRED.—

"(1) IN GENERAL.—The appropriate Federal banking agency shall, not less than once during each 12-month period, conduct a full-scope, on-site examination of each insured depository institution.

"(2) EXAMINATIONS BY CORPORATION.—Paragraph (1) shall not apply during any 12-month period in which the Corporation has conducted a full-scope, on-site examination of the insured depository institution.

"(3) STATE EXAMINATIONS ACCEPTABLE.—The examinations required by paragraph (1) may be conducted in alternate 12-month periods, as appropriate, if the appropriate Federal banking agency determines that an examination of the insured

depository institution conducted by the State during the intervening 12-month period carries out the purpose of this subsection.

"(4) 18-MONTH RULE FOR CERTAIN SMALL INSTITUTIONS.—Paragraphs (1), (2), and (3) shall apply with '18-month' substituted for '12-month' if—

"(A) the insured depository institution has total assets of less than $100,000,000;

"(B) the institution is well capitalized, as defined in section 38;

"(C) when the institution was most recently examined, it was found to be well managed, and its composite condition was found to be outstanding; and

"(D) no person acquired control of the institution during the 12-month period in which a full-scope, on-site examination would be required but for this paragraph.

"(5) CERTAIN GOVERNMENT-CONTROLLED INSTITUTIONS EXEMPTED.—Paragraph (1) does not apply to—

"(A) any institution for which the Corporation is conservator; or

"(B) any bridge bank none of the voting securities of which are owned by a person or agency other than the Corporation.

"(6) CONSUMER COMPLIANCE EXAMINATIONS EXCLUDED.—For purposes of this subsection, the term 'full-scope, on-site examination' does not include a consumer compliance examination, as defined in section 41(b).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective 1 year after the date of enactment of this Act. 12 USC 1820 note.

(c) TRANSITION RULE.—Notwithstanding section 10(d) of the Federal Deposit Insurance Act (as added by subsection (a)), during the period beginning on the date of enactment of this Act and ending on December 31, 1993, a full-scope, on-site examination of an insured depository institution is not required more often than once during every 18-month period, unless— 12 USC 1820 note.

(1) the institution, when most recently examined, was found to be in a less than satisfactory condition; or

(2) 1 or more persons acquired control of the institution.

(d) EXAMINATION IMPROVEMENT PROGRAM.— 12 USC 3305 note.

(1) IN GENERAL.—The appropriate Federal banking agencies, acting through the Federal Financial Institutions Examination Council, shall each establish a comparable examination improvement program that meets the requirements of paragraph (2).

(2) REQUIREMENTS.—An examination improvement program meets the requirements of this paragraph if, under the program, the agency is required—

(A) to periodically review the organization and training of the staff of the agency who are responsible for conducting examinations of insured depository institutions and to make such improvements as the agency determines to be appropriate to ensure frequent, objective, and thorough examinations of such institutions; and

(B) to increase the number of examiners, supervisors, and other individuals employed by the agency in connection with conducting or supervising examinations of insured depository institutions to the extent necessary to ensure

frequent, objective, and thorough examinations of such institutions.

(e) TECHNICAL AND CONFORMING AMENDMENT.—Section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) is amended to read as follows:

"(s) DEFINITIONS RELATING TO FOREIGN BANKS AND BRANCHES.—

"(1) FOREIGN BANK.—The term 'foreign bank' has the meaning given to such term by section 1(b)(7) of the International Banking Act of 1978.

"(2) FEDERAL BRANCH.—The term 'Federal branch' has the meaning given to such term by section 1(b)(6) of the International Banking Act of 1978.

"(3) INSURED BRANCH.—The term 'insured branch' means any branch (as defined in section 1(b)(3) of the International Banking Act of 1978) of a foreign bank any deposits in which are insured pursuant to this Act.".

SEC. 112. INDEPENDENT ANNUAL AUDITS OF INSURED DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

12 USC 1831m.

"SEC. 36. EARLY IDENTIFICATION OF NEEDED IMPROVEMENTS IN FINANCIAL MANAGEMENT.

"(a) ANNUAL REPORT ON FINANCIAL CONDITION AND MANAGEMENT.—

"(1) REPORT REQUIRED.—Each insured depository institution shall submit an annual report to the Corporation, the appropriate Federal banking agency, and any appropriate State bank supervisor (including any State bank supervisor of a host State).

"(2) CONTENTS OF REPORT.—Any annual report required under paragraph (1) shall contain—

"(A) the information required to be provided by—

"(i) the institution's management under subsection (b); and

"(ii) an independent public accountant under subsections (c) and (d); and

"(B) such other information as the Corporation and the appropriate Federal banking agency may determine to be necessary to assess the financial condition and management of the institution.

"(3) PUBLIC AVAILABILITY.—Any annual report required under paragraph (1) shall be available for public inspection.

"(b) MANAGEMENT RESPONSIBILITY FOR FINANCIAL STATEMENTS AND INTERNAL CONTROLS.—Each insured depository institution shall prepare—

"(1) annual financial statements in accordance with generally accepted accounting principles and such other disclosure requirements as the Corporation and the appropriate Federal banking agency may prescribe; and

Reports.

"(2) a report signed by the chief executive officer and the chief accounting or financial officer of the institution which contains—

"(A) a statement of the management's responsibilities for—

"(i) preparing financial statements;

"(ii) establishing and maintaining an adequate internal control structure and procedures for financial reporting; and

"(iii) complying with the laws and regulations relating to safety and soundness which are designated by the Corporation or the appropriate Federal banking agency; and

"(B) an assessment, as of the end of the institution's most recent fiscal year, of—

"(i) the effectiveness of such internal control structure and procedures; and

"(ii) the institution's compliance with the laws and regulations relating to safety and soundness which are designated by the Corporation and the appropriate Federal banking agency.

"(c) INTERNAL CONTROL EVALUATION AND REPORTING REQUIREMENTS FOR INDEPENDENT PUBLIC ACCOUNTANTS.—

"(1) IN GENERAL.—With respect to any internal control report required by subsection (b)(2) of any institution, the institution's independent public accountant shall attest to, and report separately on, the assertions of the institution's management contained in such report.

"(2) ATTESTATION REQUIREMENTS.—Any attestation pursuant to paragraph (1) shall be made in accordance with generally accepted standards for attestation engagements.

"(d) ANNUAL INDEPENDENT AUDITS OF FINANCIAL STATEMENTS.—

"(1) AUDITS REQUIRED.—The Corporation, in consultation with the appropriate Federal banking agencies, shall prescribe regulations requiring that each insured depository institution shall have an annual independent audit made of the institution's financial statements by an independent public accountant in accordance with generally accepted auditing standards and section 37. Regulations.

"(2) SCOPE OF AUDIT.—In connection with any audit under this subsection, the independent public accountant shall determine and report whether the financial statements of the institution—

"(A) are presented fairly in accordance with generally accepted accounting principles; and

"(B) comply with such other disclosure requirements as the Corporation and the appropriate Federal banking agency may prescribe.

"(3) REQUIREMENTS FOR INSURED SUBSIDIARIES OF HOLDING COMPANIES.—The requirements for an independent audit under this subsection may be satisfied for insured depository institutions that are subsidiaries of a holding company by an independent audit of the holding company.

"(e) DETECTING AND REPORTING VIOLATIONS OF LAWS AND REGULATIONS.—

"(1) IN GENERAL.—An independent public accountant shall apply procedures agreed upon by the Corporation to objectively determine the extent of the compliance of any insured depository institution or depository institution holding company with laws and regulations designated by the Corporation, in consultation with the appropriate Federal banking agencies.

"(2) ATTESTATION REQUIREMENTS.—Any attestation pursuant to paragraph (1) shall be made in accordance with generally accepted standards for attestation engagements.

"(f) FORM AND CONTENT OF REPORTS AND AUDITING STANDARDS.—

"(1) IN GENERAL.—The scope of each report by an independent public accountant pursuant to this section, and the procedures followed in preparing such report, shall meet or exceed the scope and procedures required by generally accepted auditing standards and other applicable standards recognized by the Corporation.

"(2) CONSULTATION.—The Corporation shall consult with the other appropriate Federal banking agencies in implementing this subsection.

"(g) IMPROVED ACCOUNTABILITY.—

"(1) INDEPENDENT AUDIT COMMITTEE.—

"(A) ESTABLISHMENT.—Each insured depository institution (to which this section applies) shall have an independent audit committee entirely made up of outside directors who are independent of management of the institution, and who satisfy any specific requirements the Corporation may establish.

"(B) DUTIES.—An independent audit committee's duties shall include reviewing with management and the independent public accountant the basis for the reports issued under subsections (b)(2), (c), and (d).

"(C) CRITERIA APPLICABLE TO COMMITTEES OF LARGE INSURED DEPOSITORY INSTITUTIONS.—In the case of each insured depository institution which the Corporation determines to be a large institution, the audit committee required by subparagraph (A) shall—

"(i) include members with banking or related financial management expertise;

"(ii) have access to the committee's own outside counsel; and

"(iii) not include any large customers of the institution.

"(2) REVIEW OF QUARTERLY REPORTS OF LARGE INSURED DEPOSITORY INSTITUTIONS.—

"(A) IN GENERAL.—In the case of any insured depository institution which the Corporation has determined to be a large institution, the Corporation may require the independent public accountant retained by such institution to perform reviews of the institution's quarterly financial reports in accordance with procedures agreed upon by the Corporation.

"(B) REPORT TO AUDIT COMMITTEE.—The independent public accountant referred to in subparagraph (A) shall provide the audit committee of the insured depository institution with reports on the reviews under such subparagraph and the audit committee shall provide such reports to the Corporation, any appropriate Federal banking agency, and any appropriate State bank supervisor.

"(C) LIMITATION ON NOTICE.—Reports provided under subparagraph (B) shall be only for the information and use of the insured depository institution, the Corporation, any appropriate Federal banking agency, and any State bank supervisor that received the report.

"(3) QUALIFICATIONS OF INDEPENDENT PUBLIC ACCOUNTANTS.—

"(A) IN GENERAL.—All audit services required by this section shall be performed only by an independent public accountant who—

"(i) has agreed to provide related working papers, policies, and procedures to the Corporation, an appropriate Federal banking agency, and any State bank supervisor, if requested; and

"(ii) has received a peer review that meets guidelines acceptable to the Corporation.

"(B) REPORTS ON PEER REVIEWS.—Reports on peer reviews shall be filed with the Corporation and made available for public inspection. Public information.

"(4) ENFORCEMENT ACTIONS.—

"(A) IN GENERAL.—In addition to any authority contained in section 8, the Corporation or an appropriate Federal banking agency may remove, suspend, or bar an independent public accountant, upon a showing of good cause, from performing audit services required by this section.

"(B) JOINT RULEMAKING.—The appropriate Federal banking agencies shall jointly issue rules of practice to implement this paragraph.

"(5) NOTICE BY ACCOUNTANT OF TERMINATION OF SERVICES.— Regulations. Any independent public accountant performing an audit under this section who subsequently ceases to be the accountant for the institution shall promptly notify the Corporation pursuant to such rules as the Corporation shall prescribe.

"(h) EXCHANGE OF REPORTS AND INFORMATION.—

"(1) REPORT TO THE INDEPENDENT AUDITOR.—

"(A) IN GENERAL.—Each insured depository institution which has engaged the services of an independent auditor to audit such institution shall transmit to the auditor a copy of the most recent report of condition made by the institution (pursuant to this Act or any other provision of law) and a copy of the most recent report of examination received by the institution.

"(B) ADDITIONAL INFORMATION.—In addition to the copies of the reports required to be provided under subparagraph (A), each insured depository institution shall provide the auditor with—

"(i) a copy of any supervisory memorandum of understanding with such institution and any written agreement between such institution and any appropriate Federal banking agency or any appropriate State bank supervisor which is in effect during the period covered by the audit; and

"(ii) a report of—

"(I) any action initiated or taken by the appropriate Federal banking agency or the Corporation during such period under subsection (a), (b), (c), (e), (g), (i), (s), or (t) of section 8;

"(II) any action taken by any appropriate State bank supervisor under State law which is similar to any action referred to in subclause (I); or

"(III) any assessment of any civil money penalty under any other provision of law with respect to the institution or any institution-affiliated party.

"(2) REPORTS TO BANKING AGENCIES.—

"(A) INDEPENDENT AUDITOR REPORTS.—Each insured depository institution shall provide to the Corporation, any appropriate Federal banking agency, and any appropriate State bank supervisor, a copy of each audit report and any qualification to such report, any management letter, and any other report within 15 days of receipt of any such report, qualification, or letter from the institution's independent auditors.

"(B) NOTICE OF CHANGE OF AUDITOR.—Each insured depository institution shall provide written notification to the Corporation, the appropriate Federal banking agency, and any appropriate State bank supervisor of the resignation or dismissal of the institution's independent auditor or the engagement of a new independent auditor by the institution, including a statement of the reasons for such change within 15 calendar days of the occurrence of the event.

"(i) REQUIREMENTS FOR INSURED SUBSIDIARIES OF HOLDING COMPANIES.—Except with respect to any audit requirements established under or pursuant to subsection (d), the requirements of this section may be satisfied for insured depository institutions that are subsidiaries of a holding company, if—

"(1) services and functions comparable to those required under this section are provided at the holding company level; and

"(2) either—

"(A) the institution has total assets, as of the beginning of such fiscal year, of less than $5,000,000,000; or

"(B) the institution—

"(i) has total assets, as of the beginning of such fiscal year, of more than $5,000,000,000 and less than $9,000,000,000; and

"(ii) has a CAMEL composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution by the Corporation or the appropriate Federal banking agency.

"(j) EXEMPTION FOR SMALL DEPOSITORY INSTITUTIONS.—This section shall not apply with respect to any fiscal year of any insured depository institution the total assets of which, as of the beginning of such fiscal year, are less than the greater of—

"(1) $150,000,000; or

"(2) such amount (in excess of $150,000,000) as the Corporation may prescribe by regulation.".

12 USC 1831m note.

(b) EFFECTIVE DATE.—The requirements established by the amendment made by subsection (a) shall apply with respect to fiscal years of insured depository institutions which begin after December 31, 1992.

SEC. 113. ASSESSMENTS REQUIRED TO COVER COSTS OF EXAMINATIONS.

(a) IN GENERAL.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) (as added by section 111(a)(1) of this subtitle) the following new subsection:

"(e) EXAMINATION FEES.—

"(1) REGULAR AND SPECIAL EXAMINATIONS OF DEPOSITORY INSTITUTIONS.—The cost of conducting any regular examination or special examination of any depository institution under subsection (b)(2), (b)(3), or (d) may be assessed by the Corporation against the institution to meet the Corporation's expenses in carrying out such examinations.

"(2) EXAMINATION OF AFFILIATES.—The cost of conducting any examination of any affiliate of any insured depository institution under subsection (b)(4) may be assessed by the Corporation against each affiliate which is examined to meet the Corporation's expenses in carrying out such examination.

"(3) ASSESSMENT AGAINST DEPOSITORY INSTITUTION IN CASE OF AFFILIATE'S REFUSAL TO PAY.—

"(A) IN GENERAL.—Subject to subparagraph (B), if any affiliate of any insured depository institution—

"(i) refuses to pay any assessment under paragraph (2); or

"(ii) fails to pay any such assessment before the end of the 60-day period beginning on the date the affiliate receives notice of the assessment,

the Corporation may assess such cost against, and collect such cost from, the depository institution.

"(B) AFFILIATE OF MORE THAN 1 DEPOSITORY INSTITUTION.—If any affiliate referred to in subparagraph (A) is an affiliate of more than 1 insured depository institution, the assessment under subparagraph (A) may be assessed against the depository institutions in such proportions as the Corporation determines to be appropriate.

"(4) CIVIL MONEY PENALTY FOR AFFILIATE'S REFUSAL TO COOPERATE.—

"(A) PENALTY IMPOSED.—If any affiliate of any insured depository institution—

"(i) refuses to permit an examiner appointed by the Board of Directors under subsection (b)(1) to conduct an examination; or

"(ii) refuses to provide any information required to be disclosed in the course of any examination,

the depository institution shall forfeit and pay a penalty of not more than $5,000 for each day that any such refusal continues.

"(B) ASSESSMENT AND COLLECTION.—Any penalty imposed under subparagraph (A) shall be assessed and collected by the Corporation in the manner provided in section 8(i)(2).

"(5) DEPOSITS OF EXAMINATION ASSESSMENT.—Amounts received by the Corporation under this subsection (other than paragraph (4)) may be deposited in the manner provided in section 13.".

(b) EXAMINATIONS OF APPLICANTS FOR DEPOSIT INSURANCE.—Section 10(b)(2)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(2)(B)) is amended to read as follows:

"(B) any depository institution which files an application with the Corporation to become an insured depository institution;".

(c) TECHNICAL AND CONFORMING AMENDMENT.—

(1) Section 7(b)(10) of the Federal Deposit Insurance Act (as so redesignated by section 103(b) of this Act) is amended by inserting "or section 10(e)" after "under this section".

(2) Section 10(b)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(4)(A)) is amended by striking "insured" each place such term appears.

SEC. 114. EXAMINATION AND SUPERVISION FEES FOR NATIONAL BANKS AND SAVINGS ASSOCIATIONS.

(a) IN GENERAL.—Section 5240 of the Revised Statutes (12 U.S.C. 482) is amended—

(1) by striking the 4th undesignated paragraph and inserting the following:

"The Comptroller of the Currency may impose and collect assessments, fees, or other charges as necessary or appropriate to carry out the responsibilities of the duties of the Comptroller. Such assessments, fees, and other charges shall be set to meet the Comptroller's expenses in carrying out authorized activities.";

(2) by striking "In addition to the expense of examination" and all that follows through "to cover the expense thereof.".

(b) TECHNICAL AMENDMENT.—Section 5240 of the Revised Statues is amended in the 2d undesignated paragraph (12 U.S.C. 481)—

(1) by striking the 2d sentence;

(2) by striking the 3d sentence and inserting "If any affiliate of a national bank refuses to pay any assessments, fees, or other charges imposed by the Comptroller of the Currency pursuant to this section or fails to make such payment not later than 60 days after the date on which they are imposed, the Comptroller of the Currency may impose such assessments, fees, or charges against the affiliated national bank, and such assessments, fees, or charges shall be paid by such national bank. If the affiliation is with 2 or more national banks, such assessments, fees, or charges may be imposed on, and collected from, any or all of such national banks in such proportions as the Comptroller of the Currency may prescribe.";

(3) in the 4th sentence, by inserting "or from other fees or charges imposed pursuant to this section" after "assessments on banks or affiliates thereof"; and

(4) in the 5th sentence—

(A) by inserting ", fees, or charges" before "may be deposited"; and

(B) by inserting "or of other fees or charges imposed pursuant to this section" before the period.

(c) ASSESSMENT AUTHORITY OF THE OFFICE OF THRIFT SUPERVISION.—Section 9 of the Home Owners' Loan Act (12 U.S.C. 1467) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a) EXAMINATION OF SAVINGS ASSOCIATIONS.—The cost of conducting examinations of savings associations pursuant to section 5(d) shall be assessed by the Director against each such savings association as the Director deems necessary or appropriate.

"(b) EXAMINATION OF AFFILIATES.—The cost of conducting examinations of affiliates of savings associations pursuant to this Act may be assessed by the Director against each affiliate that is examined as the Director deems necessary or appropriate.";

(2) by amending subsection (k) to read as follows:

"(k) FEES FOR EXAMINATIONS AND SUPERVISORY ACTIVITIES.—The Director may assess against institutions for which the Director is the appropriate Federal banking agency, as defined in section 3 of

the Federal Deposit Insurance Act, fees to fund the direct and indirect expenses of the Office as the Director deems necessary or appropriate. The fees may be imposed more frequently than annually at the discretion of the Director.".

SEC. 115. APPLICATION TO FDIC REQUIRED FOR INSURANCE.

(a) IN GENERAL.—Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815(a)) is amended by striking all that precedes subsection (b) and inserting the following:

"SEC. 5. DEPOSIT INSURANCE.

"(a) APPLICATION TO CORPORATION REQUIRED.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), any depository institution which is engaged in the business of receiving deposits other than trust funds (as defined in section 3(p)), upon application to and examination by the Corporation and approval by the Board of Directors, may become an insured depository institution.

"(2) INTERIM DEPOSITORY INSTITUTIONS.—In the case of any interim Federal depository institution that is chartered by the appropriate Federal banking agency and will not open for business, the depository institution shall be an insured depository institution upon the issuance of the institution's charter by the agency.

"(3) APPLICATION AND APPROVAL NOT REQUIRED IN CASES OF CONTINUED INSURANCE.—Paragraph (1) shall not apply in the case of any depository institution whose insured status is continued pursuant to section 4.

"(4) REVIEW REQUIREMENTS.—In reviewing any application under this subsection, the Board of Directors shall consider the factors described in section 6 in determining whether to approve the application for insurance.

"(5) NOTICE OF DENIAL OF APPLICATION FOR INSURANCE.—If the Board of Directors votes to deny any application for insurance by any depository institution, the Board of Directors shall promptly notify the appropriate Federal banking agency and, in the case of any State depository institution, the appropriate State banking supervisor of the denial of such application, giving specific reasons in writing for the Board of Directors' determination with reference to the factors described in section 6.

"(6) NONDELEGATION REQUIREMENT.—The authority of the Board of Directors to make any determination to deny any application under this subsection may not be delegated by the Board of Directors.".

(b) CONTINUATION OF INSURANCE UPON BECOMING A MEMBER BANK.—4(b) of the Federal Deposit Insurance Act (12 U.S.C. 1814(b)) is amended to read as follows:

"(b) CONTINUATION OF INSURANCE UPON BECOMING A MEMBER BANK.—In the case of an insured bank which is admitted to membership in the Federal Reserve System or an insured State bank which is converted into a national member bank, the bank shall continue as an insured bank.".

Subtitle C—Accounting Reforms

SEC. 121. ACCOUNTING OBJECTIVES, STANDARDS, AND REQUIREMENTS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 36 (as added by section 112 of this title) the following new section:

12 USC 1831n.

"SEC. 37. ACCOUNTING OBJECTIVES, STANDARDS, AND REQUIREMENTS.

"(a) IN GENERAL.—

"(1) OBJECTIVES.—Accounting principles applicable to reports or statements required to be filed with Federal banking agencies by insured depository institutions should—

"(A) result in financial statements and reports of condition that accurately reflect the capital of such institutions;

"(B) facilitate effective supervision of the institutions; and

"(C) facilitate prompt corrective action to resolve the institutions at the least cost to the insurance funds.

"(2) STANDARDS.—

"(A) UNIFORM ACCOUNTING PRINCIPLES CONSISTENT WITH GAAP.—Subject to the requirements of this Act and any other provision of Federal law, the accounting principles applicable to reports or statements required to be filed with Federal banking agencies by all insured depository institutions shall be uniform and consistent with generally accepted accounting principles.

"(B) STRINGENCY.—If the appropriate Federal banking agency or the Corporation determines that the application of any generally accepted accounting principle to any insured depository institution is inconsistent with the objectives described in paragraph (1), the agency or the Corporation may, with respect to reports or statements required to be filed with such agency or Corporation, prescribe an accounting principle which is applicable to such institutions which is no less stringent than generally accepted accounting principles.

"(3) REVIEW AND IMPLEMENTATION OF ACCOUNTING PRINCIPLES REQUIRED.—Before the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, each appropriate Federal banking agency shall take the following actions:

"(A) REVIEW OF ACCOUNTING PRINCIPLES.—Review—

"(i) all accounting principles used by depository institutions with respect to reports or statements required to be filed with a Federal banking agency;

"(ii) all requirements established by the agency with respect to such accounting procedures; and

"(iii) the procedures and format for reports to the agency, including reports of condition.

"(B) MODIFICATION OF NONCOMPLYING MEASURES.—Modify or eliminate any accounting principle or reporting requirement of such Federal agency which the agency determines fails to comply with the objectives and standards established under paragraphs (1) and (2).

Regulations.

"(C) INCLUSION OF 'OFF BALANCE SHEET' ITEMS.—Develop and prescribe regulations which require that all assets and

liabilities, including contingent assets and liabilities, of insured depository institutions be reported in, or otherwise taken into account in the preparation of any balance sheet, financial statement, report of condition, or other report of such institution, required to be filed with a Federal banking agency.

"(D) MARKET VALUE DISCLOSURE.—Develop jointly with the other appropriate Federal banking agencies a method for insured depository institutions to provide supplemental disclosure of the estimated fair market value of assets and liabilities, to the extent feasible and practicable, in any balance sheet, financial statement, report of condition, or other report of any insured depository institution required to be filed with a Federal banking agency.

"(b) UNIFORM ACCOUNTING OF CAPITAL STANDARDS.—

"(1) IN GENERAL.—Each appropriate Federal banking agency shall maintain uniform accounting standards to be used for determining compliance with statutory or regulatory requirements of depository institutions.

"(2) TRANSITION PROVISION.—Any standards in effect on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991 under section 1215 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 shall continue in effect after such date of enactment until amended by the appropriate Federal banking agency under paragraph (1).

"(c) REPORTS TO BANKING COMMITTEES.—

"(1) ANNUAL REPORTS REQUIRED.—Each appropriate Federal banking agency shall annually submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate containing a description of any difference between any accounting or capital standard used by such agency and any accounting or capital standard used by any other agency.

"(2) EXPLANATION OF REASONS FOR DISCREPANCY.—Each report submitted under paragraph (1) shall contain an explanation of the reasons for any discrepancy between any accounting or capital standard used by such agency and any accounting or capital standard used by any other agency.

"(3) PUBLICATION.—Each report under this subsection shall be published in the Federal Register.". Federal Register, publication.

(b) REPEAL OF PROVISION SUPERSEDED BY SUBSECTION (a) AMENDMENTS.—Section 1215 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833d) is hereby repealed.

SEC. 122. SMALL BUSINESS AND SMALL FARM LOAN INFORMATION. Regulations. 12 USC 1817 note.

(a) IN GENERAL.—Before the end of the 180-day period beginning on the date of the enactment of this Act, the appropriate Federal banking agency shall prescribe regulations requiring insured depository institutions to annually submit information on small businesses and small farm lending in their reports of condition.

(b) CREDIT AVAILABILITY.—The regulations prescribed under subsection (a) shall require insured depository institutions to submit such information as the agency may need to assess the availability of credit to small businesses and small farms.

(d) CONTENTS.—The information required under subsection (a) may include information regarding the following:

(1) The total number and aggregate dollar amount of commercial loans and commercial mortgage loans to small businesses.

(2) Charge-offs, interest, and interest fee income on commercial loans and commercial mortgage loans to small businesses.

(3) Agricultural loans to small farms.

SEC. 123. FDIC PROPERTY DISPOSITION STANDARDS.

(a) IN GENERAL.—Section 11(d)(13) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(13)) is amended by adding at the end the following new subparagraph:

"(E) DISPOSITION OF ASSETS.—In exercising any right, power, privilege, or authority as conservator or receiver in connection with any sale or disposition of assets of any insured depository institution for which the Corporation has been appointed conservator or receiver, including any sale or disposition of assets acquired by the Corporation under section 13(d)(1), the Corporation shall conduct its operations in a manner which—

"(i) maximizes the net present value return from the sale or disposition of such assets;

"(ii) minimizes the amount of any loss realized in the resolution of cases;

"(iii) ensures adequate competition and fair and consistent treatment of offerors;

Discrimination.

"(iv) prohibits discrimination on the basis of race, sex, or ethnic groups in the solicitation and consideration of offers; and

Disadvantaged.

"(v) maximizes the preservation of the availability and affordability of residential real property for low- and moderate-income individuals.".

(b) CORPORATE CAPACITY.—Section 13(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1823(d)(3)) is amended by adding at the end the following new subparagraph:

"(D) DISPOSITION OF ASSETS.—In exercising any right, power, privilege, or authority described in subparagraph (A) regarding the sale or disposition of assets sold to the Corporation pursuant to paragraph (1), the Corporation shall conduct its operations in a manner which—

"(i) maximizes the net present value return from the sale or disposition of such assets;

"(ii) minimizes the amount of any loss realized in the resolution of cases;

"(iii) ensures adequate competition and fair and consistent treatment of offerors;

Discrimination.

"(iv) prohibits discrimination on the basis of race, sex, or ethnic groups in the solicitation and consideration of offers; and

Disadvantaged.

"(v) maximizes the preservation of the availability and affordability of residential real property for low- and moderate-income individuals.".

Subtitle D—Prompt Regulatory Action

SEC. 131. PROMPT REGULATORY ACTION.

(a) ESTABLISHING SYSTEM OF PROMPT CORRECTIVE ACTION.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 37 (as added by section 121 of this Act) the following new section:

"SEC. 38. PROMPT CORRECTIVE ACTION. 12 USC 1831o.

"(a) RESOLVING PROBLEMS TO PROTECT DEPOSIT INSURANCE FUNDS.—

"(1) PURPOSE.—The purpose of this section is to resolve the problems of insured depository institutions at the least possible long-term loss to the deposit insurance fund.

"(2) PROMPT CORRECTIVE ACTION REQUIRED.—Each appropriate Federal banking agency and the Corporation (acting in the Corporation's capacity as the insurer of depository institutions under this Act) shall carry out the purpose of this section by taking prompt corrective action to resolve the problems of insured depository institutions.

"(b) DEFINITIONS.—For purposes of this section:

"(1) CAPITAL CATEGORIES.—

"(A) WELL CAPITALIZED.—An insured depository institution is 'well capitalized' if it significantly exceeds the required minimum level for each relevant capital measure.

"(B) ADEQUATELY CAPITALIZED.—An insured depository institution is 'adequately capitalized' if it meets the required minimum level for each relevant capital measure.

"(C) UNDERCAPITALIZED.—An insured depository institution is 'undercapitalized' if it fails to meet the required minimum level for any relevant capital measure.

"(D) SIGNIFICANTLY UNDERCAPITALIZED.—An insured depository institution is 'significantly undercapitalized' if it is significantly below the required minimum level for any relevant capital measure.

"(E) CRITICALLY UNDERCAPITALIZED.—An insured depository institution is 'critically undercapitalized' if it fails to meet any level specified under subsection (c)(3)(A).

"(2) OTHER DEFINITIONS.—

"(A) AVERAGE.—

"(i) IN GENERAL.—The 'average' of an accounting item (such as total assets or tangible equity) during a given period means the sum of that item at the close of business on each business day during that period divided by the total number of business days in that period.

"(ii) AGENCY MAY PERMIT WEEKLY AVERAGING FOR CERTAIN INSTITUTIONS.—In the case of insured depository institutions that have total assets of less than $300,000,000 and normally file reports of condition reflecting weekly (rather than daily) averages of accounting items, the appropriate Federal banking agency may provide that the 'average' of an accounting item during a given period means the sum of that item at the close of business on the relevant business day

each week during that period divided by the total number of weeks in that period.

"(B) CAPITAL DISTRIBUTION.—The term 'capital distribution' means—

"(i) a distribution of cash or other property by any insured depository institution or company to its owners made on account of that ownership, but not including—

"(I) any dividend consisting only of shares of the institution or company or rights to purchase such shares; or

"(II) any amount paid on the deposits of a mutual or cooperative institution that the appropriate Federal banking agency determines is not a distribution for purposes of this section;

"(ii) a payment by an insured depository institution or company to repurchase, redeem, retire, or otherwise acquire any of its shares or other ownership interests, including any extension of credit to finance an affiliated company's acquisition of those shares or interests; or

"(iii) a transaction that the appropriate Federal banking agency or the Corporation determines, by order or regulation, to be in substance a distribution of capital to the owners of the insured depository institution or company.

"(C) CAPITAL RESTORATION PLAN.—The term 'capital restoration plan' means a plan submitted under subsection (e)(2).

"(D) COMPANY.—The term 'company' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

"(E) COMPENSATION.—The term 'compensation' includes any payment of money or provision of any other thing of value in consideration of employment.

"(F) RELEVANT CAPITAL MEASURE.—The term 'relevant capital measure' means the measures described in subsection (c).

"(G) REQUIRED MINIMUM LEVEL.—The term 'required minimum level' means, with respect to each relevant capital measure, the minimum acceptable capital level specified by the appropriate Federal banking agency by regulation.

"(H) SENIOR EXECUTIVE OFFICER.—The term 'senior executive officer' has the same meaning as the term 'executive officer' in section 22(h) of the Federal Reserve Act.

"(I) SUBORDINATED DEBT.—The term 'subordinated debt' means debt subordinated to the claims of general creditors.

"(c) CAPITAL STANDARDS.—

"(1) RELEVANT CAPITAL MEASURES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B)(ii), the capital standards prescribed by each appropriate Federal banking agency shall include—

"(i) a leverage limit; and

"(ii) a risk-based capital requirement.

"(B) OTHER CAPITAL MEASURES.—An appropriate Federal banking agency may, by regulation—

"(i) establish any additional relevant capital measures to carry out the purpose of this section; or

"(ii) rescind any relevant capital measure required under subparagraph (A) upon determining (with the concurrence of the other Federal banking agencies) that the measure is no longer an appropriate means for carrying out the purpose of this section.

"(2) CAPITAL CATEGORIES GENERALLY.—Each appropriate Federal banking agency shall, by regulation, specify for each relevant capital measure the levels at which an insured depository institution is well capitalized, adequately capitalized, undercapitalized, and significantly undercapitalized. Regulations.

"(3) CRITICAL CAPITAL.—

"(A) AGENCY TO SPECIFY LEVEL.—

"(i) LEVERAGE LIMIT.—Each appropriate Federal banking agency shall, by regulation, in consultation with the Corporation, specify the ratio of tangible equity to total assets at which an insured depository institution is critically undercapitalized.

"(ii) OTHER RELEVANT CAPITAL MEASURES.—The agency may, by regulation, specify for 1 or more other relevant capital measures, the level at which an insured depository institution is critically undercapitalized.

"(B) LEVERAGE LIMIT RANGE.—The level specified under subparagraph (A)(i) shall require tangible equity in an amount—

"(i) not less than 2 percent of total assets; and

"(ii) except as provided in clause (i), not more than 65 percent of the required minimum level of capital under the leverage limit.

"(C) FDIC'S CONCURRENCE REQUIRED.—The appropriate Federal banking agency shall not, without the concurrence of the Corporation, specify a level under subparagraph (A)(i) lower than that specified by the Corporation for State nonmember insured banks.

"(d) PROVISIONS APPLICABLE TO ALL INSTITUTIONS.—

"(1) CAPITAL DISTRIBUTIONS RESTRICTED.—

"(A) IN GENERAL.—An insured depository institution shall make no capital distribution if, after making the distribution, the institution would be undercapitalized.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), the appropriate Federal banking agency may permit, after consultation with the Corporation, an insured depository institution to repurchase, redeem, retire, or otherwise acquire shares or ownership interests if the repurchase, redemption, retirement, or other acquisition—

"(i) is made in connection with the issuance of additional shares or obligations of the institution in at least an equivalent amount; and

"(ii) will reduce the institution's financial obligations or otherwise improve the institution's financial condition.

"(2) MANAGEMENT FEES RESTRICTED.—An insured depository institution shall pay no management fee to any person having control of that institution if, after making the payment, the institution would be undercapitalized.

"(e) PROVISIONS APPLICABLE TO UNDERCAPITALIZED INSTITUTIONS.—

"(1) MONITORING REQUIRED.—Each appropriate Federal banking agency shall—

"(A) closely monitor the condition of any undercapitalized insured depository institution;

"(B) closely monitor compliance with capital restoration plans, restrictions, and requirements imposed under this section; and

"(C) periodically review the plan, restrictions, and requirements applicable to any undercapitalized insured depository institution to determine whether the plan, restrictions, and requirements are achieving the purpose of this section.

"(2) CAPITAL RESTORATION PLAN REQUIRED.—

"(A) IN GENERAL.—Any undercapitalized insured depository institution shall submit an acceptable capital restoration plan to the appropriate Federal banking agency within the time allowed by the agency under subparagraph (D).

"(B) CONTENTS OF PLAN.—The capital restoration plan shall—

"(i) specify—

"(I) the steps the insured depository institution will take to become adequately capitalized;

"(II) the levels of capital to be attained during each year in which the plan will be in effect;

"(III) how the institution will comply with the restrictions or requirements then in effect under this section; and

"(IV) the types and levels of activities in which the institution will engage; and

"(ii) contain such other information as the appropriate Federal banking agency may require.

"(C) CRITERIA FOR ACCEPTING PLAN.—The appropriate Federal banking agency shall not accept a capital restoration plan unless the agency determines that—

"(i) the plan—

"(I) complies with subparagraph (B);

"(II) is based on realistic assumptions, and is likely to succeed in restoring the institution's capital; and

"(III) would not appreciably increase the risk (including credit risk, interest-rate risk, and other types of risk) to which the institution is exposed; and

"(ii) if the insured depository institution is undercapitalized, each company having control of the institution has—

"(I) guaranteed that the institution will comply with the plan until the institution has been adequately capitalized on average during each of 4 consecutive calendar quarters; and

"(II) provided appropriate assurances of performance.

Regulations.

"(D) DEADLINES FOR SUBMISSION AND REVIEW OF PLANS.—The appropriate Federal banking agency shall by regulation establish deadlines that—

"(i) provide insured depository institutions with reasonable time to submit capital restoration plans, and generally require an institution to submit a plan not later than 45 days after the institution becomes undercapitalized; and

"(ii) require the agency to act on capital restoration plans expeditiously, and generally not later than 60 days after the plan is submitted; and

"(iii) require the agency to submit a copy of any plan approved by the agency to the Corporation before the end of the 45-day period beginning on the date such approval is granted.

"(E) GUARANTEE LIABILITY LIMITED.—

"(i) IN GENERAL.—The aggregate liability under subparagraph (C)(ii) of all companies having control of an insured depository institution shall be the lesser of—

"(I) an amount equal to 5 percent of the institution's total assets at the time the institution became undercapitalized; or

"(II) the amount which is necessary (or would have been necessary) to bring the institution into compliance with all capital standards applicable with respect to such institution as of the time the institution fails to comply with a plan under this subsection.

"(ii) CERTAIN AFFILIATES NOT AFFECTED.—This paragraph may not be construed as—

"(I) requiring any company not having control of an undercapitalized insured depository institution to guarantee, or otherwise be liable on, a capital restoration plan;

"(II) requiring any person other than an insured depository institution to submit a capital restoration plan; or

"(III) affecting compliance by brokers, dealers, government securities brokers, and government securities dealers with the financial responsibility requirements of the Securities Exchange Act of 1934 and regulations and orders thereunder.

"(3) ASSET GROWTH RESTRICTED.—An undercapitalized insured depository institution shall not permit its average total assets during any calendar quarter to exceed its average total assets during the preceding calendar quarter unless—

"(A) the appropriate Federal banking agency has accepted the institution's capital restoration plan;

"(B) any increase in total assets is consistent with the plan; and

"(C) the institution's ratio of tangible equity to assets increases during the calendar quarter at a rate sufficient to enable the institution to become adequately capitalized within a reasonable time.

"(4) PRIOR APPROVAL REQUIRED FOR ACQUISITIONS, BRANCHING, AND NEW LINES OF BUSINESS.—An undercapitalized insured depository institution shall not, directly or indirectly, acquire any interest in any company or insured depository institution,

establish or acquire any additional branch office, or engage in any new line of business unless—

"(A) the appropriate Federal banking agency has accepted the insured depository institution's capital restoration plan, the institution is implementing the plan, and the agency determines that the proposed action is consistent with and will further the achievement of the plan; or

"(B) the Board of Directors determines that the proposed action will further the purpose of this section.

"(5) DISCRETIONARY SAFEGUARDS.—The appropriate Federal banking agency may, with respect to any undercapitalized insured depository institution, take actions described in any subparagraph of subsection (f)(2) if the agency determines that those actions are necessary to carry out the purpose of this section.

"(f) PROVISIONS APPLICABLE TO SIGNIFICANTLY UNDERCAPITALIZED INSTITUTIONS AND UNDERCAPITALIZED INSTITUTIONS THAT FAIL TO SUBMIT AND IMPLEMENT CAPITAL RESTORATION PLANS.—

"(1) IN GENERAL.—This subsection shall apply with respect to any insured depository institution that—

"(A) is significantly undercapitalized; or

"(B) is undercapitalized and—

"(i) fails to submit an acceptable capital restoration plan within the time allowed by the appropriate Federal banking agency under subsection (e)(2)(D); or

"(ii) fails in any material respect to implement a plan accepted by the agency.

"(2) SPECIFIC ACTIONS AUTHORIZED.—The appropriate Federal banking agency shall carry out this section by taking 1 or more of the following actions:

"(A) REQUIRING RECAPITALIZATION.—Doing 1 or more of the following:

"(i) Requiring the institution to sell enough shares or obligations of the institution so that the institution will be adequately capitalized after the sale.

"(ii) Further requiring that instruments sold under clause (i) be voting shares.

"(iii) Requiring the institution to be acquired by a depository institution holding company, or to combine with another insured depository institution, if 1 or more grounds exist for appointing a conservator or receiver for the institution.

"(B) RESTRICTING TRANSACTIONS WITH AFFILIATES.—

"(i) Requiring the institution to comply with section 23A of the Federal Reserve Act as if subsection (d)(1) of that section (exempting transactions with certain affiliated institutions) did not apply.

"(ii) Further restricting the institution's transactions with affiliates.

"(C) RESTRICTING INTEREST RATES PAID.—

"(i) IN GENERAL.—Restricting the interest rates that the institution pays on deposits to the prevailing rates of interest on deposits of comparable amounts and maturities in the region where the institution is located, as determined by the agency.

"(ii) RETROACTIVE RESTRICTIONS PROHIBITED.—This subparagraph does not authorize the agency to restrict

interest rates paid on time deposits made before (and not renewed or renegotiated after) the agency acted under this subparagraph.

"(D) RESTRICTING ASSET GROWTH.—Restricting the institution's asset growth more stringently than subsection (e)(3), or requiring the institution to reduce its total assets.

"(E) RESTRICTING ACTIVITIES.—Requiring the institution or any of its subsidiaries to alter, reduce, or terminate any activity that the agency determines poses excessive risk to the institution.

"(F) IMPROVING MANAGEMENT.—Doing 1 or more of the following:

"(i) NEW ELECTION OF DIRECTORS.—Ordering a new election for the institution's board of directors.

"(ii) DISMISSING DIRECTORS OR SENIOR EXECUTIVE OFFICERS.—Requiring the institution to dismiss from office any director or senior executive officer who had held office for more than 180 days immediately before the institution became undercapitalized. Dismissal under this clause shall not be construed to be a removal under section 8.

"(iii) EMPLOYING QUALIFIED SENIOR EXECUTIVE OFFICERS.—Requiring the institution to employ qualified senior executive officers (who, if the agency so specifies, shall be subject to approval by the agency).

"(G) PROHIBITING DEPOSITS FROM CORRESPONDENT BANKS.—Prohibiting the acceptance by the institution of deposits from correspondent depository institutions, including renewals and rollovers of prior deposits.

"(H) REQUIRING PRIOR APPROVAL FOR CAPITAL DISTRIBUTIONS BY BANK HOLDING COMPANY.—Prohibiting any bank holding company having control of the insured depository institution from making any capital distribution without the prior approval of the Board of Governors of the Federal Reserve System.

"(I) REQUIRING DIVESTITURE.—Doing one or more of the following:

"(i) DIVESTITURE BY THE INSTITUTION.—Requiring the institution to divest itself of or liquidate any subsidiary if the agency determines that the subsidiary is in danger of becoming insolvent and poses a significant risk to the institution, or is likely to cause a significant dissipation of the institution's assets or earnings.

"(ii) DIVESTITURE BY PARENT COMPANY OF NONDEPOSITORY AFFILIATE.—Requiring any company having control of the institution to divest itself of or liquidate any affiliate other than an insured depository institution if the appropriate Federal banking agency for that company determines that the affiliate is in danger of becoming insolvent and poses a significant risk to the institution, or is likely to cause a significant dissipation of the institution's assets or earnings.

"(iii) DIVESTITURE OF INSTITUTION.—Requiring any company having control of the institution to divest itself of the institution if the appropriate Federal banking agency for that company determines that divesti-

ture would improve the institution's financial condition and future prospects.

"(J) REQUIRING OTHER ACTION.—Requiring the institution to take any other action that the agency determines will better carry out the purpose of this section than any of the actions described in this paragraph.

"(3) PRESUMPTION IN FAVOR OF CERTAIN ACTIONS.—In complying with paragraph (2), the agency shall take the following actions, unless the agency determines that the actions would not further the purpose of this section:

"(A) The action described in clause (i) or (iii) of paragraph (2)(A) (relating to requiring the sale of shares or obligations, or requiring the institution to be acquired by or combine with another institution).

"(B) The action described in paragraph (2)(B)(i) (relating to restricting transactions with affiliates).

"(C) The action described in paragraph (2)(C) (relating to restricting interest rates).

"(4) SENIOR EXECUTIVE OFFICERS' COMPENSATION RESTRICTED.—

"(A) IN GENERAL.—The insured depository institution shall not do any of the following without the prior written approval of the appropriate Federal banking agency:

"(i) Pay any bonus to any senior executive officer.

"(ii) Provide compensation to any senior executive officer at a rate exceeding that officer's average rate of compensation (excluding bonuses, stock options, and profit-sharing) during the 12 calendar months preceding the calendar month in which the institution became undercapitalized.

"(B) FAILING TO SUBMIT PLAN.—The appropriate Federal banking agency shall not grant any approval under subparagraph (A) with respect to an institution that has failed to submit an acceptable capital restoration plan.

"(5) DISCRETION TO IMPOSE CERTAIN ADDITIONAL RESTRICTIONS.—The agency may impose 1 or more of the restrictions prescribed by regulation under subsection (i) if the agency determines that those restrictions are necessary to carry out the purpose of this section.

"(6) CONSULTATION WITH FUNCTIONAL REGULATORS.—Before the agency or Corporation makes a determination under paragraph (2)(I) with respect to an affiliate that is a broker, dealer, government securities broker, government securities dealer, investment company, or investment adviser, the agency or Corporation shall consult with the Securities and Exchange Commisssion and, in the case of any other affiliate which is subject to any financial responsibility or capital requirement, any other functional regulator (as defined in section 2(s) of the Bank Holding Company Act of 1956) of such affiliate with respect to the proposed determination of the agency or the Corporation and actions pursuant to such determination.

"(g) MORE STRINGENT TREATMENT BASED ON OTHER SUPERVISORY CRITERIA.—

"(1) IN GENERAL.—If the appropriate Federal banking agency determines (after notice and an opportunity for hearing) that an insured depository institution is in an unsafe or unsound condition or, pursuant to section 8(b)(8), deems the institution to be engaging in an unsafe or unsound practice, the agency may—

"(A) if the institution is well capitalized, reclassify the institution as adequately capitalized;

"(B) if the institution is adequately capitalized, require the institution to comply with 1 or more provisions of subsections (d) and (e), as if the institution were undercapitalized; or

"(C) if the institution is undercapitalized, take any 1 or more actions authorized under subsection (f)(2) as if the institution were significantly undercapitalized.

"(2) CONTENTS OF PLAN.—Any plan required under paragraph (1) shall specify the steps that the insured depository institution will take to correct the unsafe or unsound condition or practice. Capital restoration plans shall not be required under paragraph (1)(B).

"(h) PROVISIONS APPLICABLE TO CRITICALLY UNDERCAPITALIZED INSTITUTIONS.—

"(1) ACTIVITIES RESTRICTED.—Any critically undercapitalized insured depository institution shall comply with restrictions prescribed by the Corporation under subsection (i).

"(2) PAYMENTS ON SUBORDINATED DEBT PROHIBITED.—

"(A) IN GENERAL.—A critically undercapitalized insured depository institution shall not, beginning 60 days after becoming critically undercapitalized, make any payment of principal or interest on the institution's subordinated debt.

"(B) EXCEPTIONS.—The Corporation may make exceptions to subparagraph (A) if—

"(i) the appropriate Federal banking agency has taken action with respect to the insured depository institution under paragraph (3)(A)(ii); and

"(ii) the Corporation determines that the exception would further the purpose of this section.

"(C) LIMITED EXEMPTION FOR CERTAIN SUBORDINATED DEBT.—Until July 15, 1996, subparagraph (A) shall not apply with respect to any subordinated debt outstanding on July 15, 1991, and not extended or otherwise renegotiated after July 15, 1991.

"(D) ACCRUAL OF INTEREST.—Subparagraph (A) does not prevent unpaid interest from accruing on subordinated debt under the terms of that debt, to the extent otherwise permitted by law.

"(3) CONSERVATORSHIP, RECEIVERSHIP, OR OTHER ACTION REQUIRED.—

"(A) IN GENERAL.—The appropriate Federal banking agency shall, not later than 90 days after an insured depository institution becomes critically undercapitalized—

"(i) appoint a receiver (or, with the concurrence of the Corporation, a conservator) for the institution; or

"(ii) take such other action as the agency determines, with the concurrence of the Corporation, would better achieve the purpose of this section, after documenting why the action would better achieve that purpose.

Termination date.

"(B) PERIODIC REDETERMINATIONS REQUIRED.—Any determination by an appropriate Federal banking agency under subparagraph (A)(ii) to take any action with respect to an insured depository institution in lieu of appointing a conservator or receiver shall cease to be effective not later than the end of the 90-day period beginning on the date that the

determination is made and a conservator or receiver shall be appointed for that institution under subparagraph (A)(i) unless the agency makes a new determination under subparagraph (A)(ii) at the end of the effective period of the prior determination.

"(C) APPOINTMENT OF RECEIVER REQUIRED IF OTHER ACTION FAILS TO RESTORE CAPITAL.—

"(i) IN GENERAL.—Notwithstanding subparagraphs (A) and (B), the appropriate Federal banking agency shall appoint a receiver for the insured depository institution if the institution is critically undercapitalized on average during the calendar quarter beginning 270 days after the date on which the institution became critically undercapitalized.

"(ii) EXCEPTION.—Notwithstanding clause (i), the appropriate Federal banking agency may continue to take such other action as the agency determines to be appropriate in lieu of such appointment if—

"(I) the agency determines, with the concurrence of the Corporation, that (aa) the insured depository institution has positive net worth, (bb) the insured depository institution has been in substantial compliance with an approved capital restoration plan which requires consistent improvement in the institution's capital since the date of the approval of the plan, (cc) the insured depository institution is profitable or has an upward trend in earnings the agency projects as sustainable, and (dd) the insured depository institution is reducing the ratio of nonperforming loans to total loans; and

"(II) the head of the appropriate Federal banking agency and the Chairperson of the Board of Directors both certify that the institution is viable and not expected to fail.

Regulations.

"(i) RESTRICTING ACTIVITIES OF CRITICALLY UNDERCAPITALIZED INSTITUTIONS.—To carry out the purpose of this section, the Corporation shall, by regulation or order—

"(1) restrict the activities of any critically undercapitalized insured depository institution; and

"(2) at a minimum, prohibit any such institution from doing any of the following without the Corporation's prior written approval:

"(A) Entering into any material transaction other than in the usual course of business, including any investment, expansion, acquisition, sale of assets, or other similar action with respect to which the depository institution is required to provide notice to the appropriate Federal banking agency.

"(B) Extending credit for any highly leveraged transaction.

"(C) Amending the institution's charter or bylaws, except to the extent necessary to carry out any other requirement of any law, regulation, or order.

"(D) Making any material change in accounting methods.

"(E) Engaging in any covered transaction (as defined in section 23A(b) of the Federal Reserve Act).

"(F) Paying excessive compensation or bonuses.

"(G) Paying interest on new or renewed liabilities at a rate that would increase the institution's weighted average cost of funds to a level significantly exceeding the prevailing rates of interest on insured deposits in the institution's normal market areas.

"(j) CERTAIN GOVERNMENT-CONTROLLED INSTITUTIONS EXEMPTED.—Subsections (e) through (i) (other than paragraph (3) of subsection (e)) shall not apply—

"(1) to an insured depository institution for which the Corporation or the Resolution Trust Corporation is conservator; or

"(2) to a bridge bank, none of the voting securities of which are owned by a person or agency other than the Corporation or the Resolution Trust Corporation.

"(k) REVIEW REQUIRED WHEN DEPOSIT INSURANCE FUND INCURS MATERIAL LOSS.—

"(1) IN GENERAL.—If a deposit insurance fund incurs a material loss with respect to an insured depository institution on or after July 1, 1993, the inspector general of the appropriate Federal banking agency shall—

"(A) make a written report to that agency reviewing the agency's supervision of the institution (including the agency's implementation of this section), which shall— Reports.

"(i) ascertain why the institution's problems resulted in a material loss to the deposit insurance fund; and

"(ii) make recommendations for preventing any such loss in the future; and

"(B) provide a copy of the report to—

"(i) the Comptroller General of the United States;

"(ii) the Corporation (if the agency is not the Corporation);

"(iii) in the case of a State depository institution, the appropriate State banking supervisor; and

"(iv) upon request by any Member of Congress, to that Member.

"(2) MATERIAL LOSS INCURRED.—For purposes of this subsection:

"(A) LOSS INCURRED.—A deposit insurance fund incurs a loss with respect to an insured depository institution—

"(i) if the Corporation provides any assistance under section 13(c) with respect to that institution; and—

"(I) it is not substantially certain that the assistance will be fully repaid not later than 24 months after the date on which the Corporation initiated the assistance; or

"(II) the institution ceases to repay the assistance in accordance with its terms; or

"(ii) if the Corporation is appointed receiver of the institution, and it is or becomes apparent that the present value of the deposit insurance fund's outlays with respect to that institution will exceed the present value of receivership dividends or other payments on the claims held by the Corporation.

"(B) MATERIAL LOSS.—A loss is material if it exceeds the greater of—

"(i) $25,000,000; or

"(ii) 2 percent of the institution's total assets at the time the Corporation initiated assistance under section 13(c) or was appointed receiver.

"(3) DEADLINE FOR REPORT.—The inspector general of the appropriate Federal banking agency shall comply with paragraph (1) expeditiously, and in any event (except with respect to paragraph (1)(B)(iv)) as follows:

"(A) If the institution is described in paragraph (2)(A)(i), during the 6-month period beginning on the earlier of—

"(i) the date on which the institution ceases to repay assistance under section 13(c) in accordance with its terms, or

"(ii) the date on which it becomes apparent that the assistance will not be fully repaid during the 24-month period described in paragraph (2)(A)(i).

"(B) If the institution is described in paragraph (2)(A)(ii), during the 6-month period beginning on the date on which it becomes apparent that the present value of the deposit insurance fund's outlays with respect to that institution will exceed the present value of receivership dividends or other payments on the claims held by the Corporation.

"(4) PUBLIC DISCLOSURE REQUIRED.—

"(A) IN GENERAL.—The appropriate Federal banking agency shall disclose the report upon request under section 552 of title 5, United States Code, without excising—

"(i) any portion under section 552(b)(5) of that title; or

"(ii) any information about the insured depository institution under paragraph (4) (other than trade secrets) or paragraph (8) of section 552(b) of that title.

"(B) EXCEPTION.—Subparagraph (A) does not require the agency to disclose the name of any customer of the insured depository institution (other than an institution-affiliated party), or information from which such a person's identity could reasonably be ascertained.

"(5) GAO REVIEW.—The General Accounting Office shall annually—

"(A) review reports made under paragraph (1) and recommend improvements in the supervision of insured depository institutions (including the implementation of this section); and

"(B) verify the accuracy of 1 or more of those reports.

Effective date.
Termination date.

"(6) TRANSITION RULE.—During the period beginning on July 1, 1993, and ending on June 30, 1997, a loss incurred by the Corporation with respect to an insured depository institution—

"(A) with respect to which the Corporation initiates assistance under section 13(c) during the period in question, or

"(B) for which the Corporation was appointed receiver during the period in question,

is material for purposes of this subsection only if that loss exceeds the greater of $25,000,000 or the applicable percentage of the institution's total assets at that time, set forth in the following table:

"For the following period:	The applicable percentage is:
July 1, 1993–June 30, 1994	7 percent
July 1, 1994–June 30, 1995	5 percent
July 1, 1995–June 30, 1996	4 percent
July 1, 1996–June 30, 1997	3 percent.

"(l) IMPLEMENTATION.—

"(1) REGULATIONS AND OTHER ACTIONS.—Each appropriate Federal banking agency shall prescribe such regulations (in consultation with the other Federal banking agencies), issue such orders, and take such other actions as are necessary to carry out this section.

"(2) WRITTEN DETERMINATION AND CONCURRENCE REQUIRED.—Any determination or concurrence by an appropriate Federal banking agency or the Corporation required under this section shall be written.

"(m) OTHER AUTHORITY NOT AFFECTED.—This section does not limit any authority of an appropriate Federal banking agency, the Corporation, or a State to take action in addition to (but not in derogation of) that required under this section.

"(n) ADMINISTRATIVE REVIEW OF DISMISSAL ORDERS.—

"(1) TIMELY PETITION REQUIRED.—A director or senior executive officer dismissed pursuant to an order under subsection (f)(2)(F)(ii) may obtain review of that order by filing a written petition for reinstatement with the appropriate Federal banking agency not later than 10 days after receiving notice of the dismissal.

"(2) PROCEDURE.—

"(A) HEARING REQUIRED.—The agency shall give the petitioner an opportunity to—

"(i) submit written materials in support of the petition; and

"(ii) appear, personally or through counsel, before 1 or more members of the agency or designated employees of the agency.

"(B) DEADLINE FOR HEARING.—The agency shall—

"(i) schedule the hearing referred to in subparagraph (A)(ii) promptly after the petition is filed; and

"(ii) hold the hearing not later than 30 days after the petition is filed, unless the petitioner requests that the hearing be held at a later time.

"(C) DEADLINE FOR DECISION.—Not later than 60 days after the date of the hearing, the agency shall—

"(i) by order, grant or deny the petition;

"(ii) if the order is adverse to the petitioner, set forth the basis for the order; and

"(iii) notify the petitioner of the order.

"(3) STANDARD FOR REVIEW OF DISMISSAL ORDERS.—The petitioner shall bear the burden of proving that the petitioner's continued employment would materially strengthen the insured depository institution's ability—

"(A) to become adequately capitalized, to the extent that the order is based on the institution's capital level or failure to submit or implement a capital restoration plan; and

"(B) to correct the unsafe or unsound condition or unsafe or unsound practice, to the extent that the order is based on subsection (g)(1).

"(o) TRANSITION RULES FOR SAVINGS ASSOCIATIONS.—

"(1) RTC'S ROLE DOES NOT DIMINISH CARE REQUIRED OF OTS.—

"(A) IN GENERAL.—In implementing this section, the appropriate Federal banking agency (and, to the extent

applicable, the Corporation) shall exercise the same care as if the Savings Association Insurance Fund (rather than the Resolution Trust Corporation) bore the cost of resolving the problems of insured savings associations described in clauses (i) and (ii)(II) of section 21A(b)(3)(A) of the Federal Home Loan Bank Act.

"(B) REPORTS.—Subparagraph (A) does not require reports under subsection (k).

"(2) ADDITIONAL FLEXIBILITY FOR CERTAIN SAVINGS ASSOCIATIONS.—Subsections (e)(2), (f), and (h) shall not apply before July 1, 1994, to any insured savings association if—

"(A) before the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991—

"(i) the savings association had submitted a plan meeting the requirements of section 5(t)(6)(A)(ii) of the Home Owners' Loan Act; and

"(ii) the Director of the Office of Thrift Supervision had accepted the plan;

"(B) the plan remains in effect; and

"(C) the savings association remains in compliance with the plan or is operating under a written agreement with the appropriate Federal banking agency.".

Effective date.
12 USC 1831o note.

(b) DEADLINE FOR REGULATIONS.—Each appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) (and the Corporation, acting in the Corporation's capacity as insurer of depository institutions under that Act) shall, after notice and opportunity for comment, promulgate final regulations under section 38 of the Federal Deposit Insurance Act (as added by subsection (a)) not later than 9 months after the date of enactment of this Act, and those regulations shall become effective not later than 1 year after that date of enactment.

(c) OTHER AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) ENFORCEMENT ACTION BASED ON UNSATISFACTORY ASSET QUALITY, MANAGEMENT, EARNINGS, OR LIQUIDITY.—Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended by redesignating paragraph (8) as paragraph (9) and inserting after paragraph (7) the following:

"(8) UNSATISFACTORY ASSET QUALITY, MANAGEMENT, EARNINGS, OR LIQUIDITY AS UNSAFE OR UNSOUND PRACTICE.—If an insured depository institution receives, in its most recent report of examination, a less-than-satisfactory rating for asset quality, management, earnings, or liquidity, the appropriate Federal banking agency may (if the deficiency is not corrected) deem the institution to be engaging in an unsafe or unsound practice for purposes of this subsection.".

(2) CONFORMING AMENDMENTS RELATING TO FEDERAL BANKING AGENCIES' ENFORCEMENT AUTHORITY.—Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended—

(A) in the first sentence of paragraph (1), by inserting "or under section 38" after "section"; and

(B) in paragraph (2)(A)(ii), by inserting ", or final order under section 38" after "section".

(3) DEFINITION.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by adding at the end the following:

"(y) The term 'deposit insurance fund' means the Bank Insurance Fund or the Savings Association Insurance Fund, as appropriate.".

(d) CONFORMING AMENDMENT TO SECTION 5(t)(7) OF THE HOME OWNERS' LOAN ACT.—Section 5(t)(7) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(7)) is amended—

(1) in subsection (A), by inserting "under this Act" before the period; and

(2) in subsection (B), by inserting "under this Act" after "imposed by the Director".

(e) TRANSITION RULE REGARDING CURRENT DIRECTORS AND SENIOR EXECUTIVE OFFICERS.— 12 USC 1831o note.

(1) DISMISSAL FROM OFFICE.—Section 38(f)(2)(F)(ii) of the Federal Deposit Insurance Act (as added by subsection (a)) shall not apply with respect to—

(A) any director whose current term as a director commenced on or before the date of enactment of this Act and has not been extended—

(i) after that date of enactment, or

(ii) to evade section 38(f)(2)(F)(ii); or

(B) any senior executive officer who accepted employment in his or her current position on or before the date of enactment of this Act and whose contract of employment has not been renewed or renegotiated—

(i) after that date of enactment, or

(ii) to evade section 38(f)(2)(F)(ii).

(2) RESTRICTING COMPENSATION.—Section 38(f)(4) of the Federal Deposit Insurance Act (as added by subsection (a)) shall not apply with respect to any senior executive officer who accepted employment in his or her current position on or before the date of enactment of this Act and whose contract of employment has not been renewed or renegotiated—

(A) after that date of enactment, or

(B) to evade section 38(f)(4).

(f) EFFECTIVE DATE.—The amendments made by this section shall become effective 1 year after the date of enactment of this Act. 12 USC 1464 note.

SEC. 132. STANDARDS FOR SAFETY AND SOUNDNESS.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 38 (as added by section 131 of this Act) the following new section:

"SEC. 39. STANDARDS FOR SAFETY AND SOUNDNESS. 12 USC 1831s.

"(a) OPERATIONAL AND MANAGERIAL STANDARDS.—Each appropriate Federal banking agency shall, for all insured depository institutions and depository institution holding companies, prescribe—

"(1) standards relating to—

"(A) internal controls, information systems, and internal audit systems, in accordance with section 36;

"(B) loan documentation;

"(C) credit underwriting;

"(D) interest rate exposure;

"(E) asset growth; and

"(F) compensation, fees, and benefits, in accordance with subsection (c); and

"(2) such other operational and managerial standards as the agency determines to be appropriate.

"(b) ASSET QUALITY, EARNINGS, AND STOCK VALUATION STANDARDS.—Each appropriate Federal banking agency shall, for all insured depository institutions and depository institution holding companies, prescribe—

"(1) standards specifying—

"(A) a maximum ratio of classified assets to capital;

"(B) minimum earnings sufficient to absorb losses without impairing capital; and

"(C) to the extent feasible, a minimum ratio of market value to book value for publicly traded shares of the institution or company; and

"(2) such other standards relating to asset quality, earnings, and valuation as the agency determines to be appropriate.

"(c) COMPENSATION STANDARDS.—Each appropriate Federal banking agency shall, for all insured depository institutions, prescribe—

"(1) standards prohibiting as an unsafe and unsound practice any employment contract, compensation or benefit agreement, fee arrangement, perquisite, stock option plan, postemployment benefit, or other compensatory arrangement that—

"(A) would provide any executive officer, employee, director, or principal shareholder of the institution with excessive compensation, fees or benefits; or

"(B) could lead to material financial loss to the institution;

"(2) standards specifying when compensation, fees, or benefits referred to in paragraph (1) are excessive, which shall require the agency to determine whether the amounts are unreasonable or disproportionate to the services actually performed by the individual by considering—

"(A) the combined value of all cash and noncash benefits provided to the individual;

"(B) the compensation history of the individual and other individuals with comparable expertise at the institution;

"(C) the financial condition of the institution;

"(D) comparable compensation practices at comparable institutions, based upon such factors as asset size, geographic location, and the complexity of the loan portfolio or other assets;

"(E) for postemployment benefits, the projected total cost and benefit to the institution;

"(F) any connection between the individual and any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the institution; and

"(G) other factors that the agency determines to be relevant; and

"(3) such other standards relating to compensation, fees, and benefits as the agency determines to be appropriate.

"(d) STANDARDS TO BE PRESCRIBED BY REGULATION.—Standards under subsections (a), (b), and (c) shall be prescribed by regulation.

"(e) FAILURE TO MEET STANDARDS.—

"(1) PLAN REQUIRED.—

"(A) IN GENERAL.—If the appropriate Federal banking agency determines that an insured depository institution or depository institution holding company fails to meet any standard prescribed under subsection (a), (b), or (c) the agency shall require the institution or company to submit

an acceptable plan to the agency within the time allowed by the agency under subparagraph (C).

"(B) CONTENTS OF PLAN.—Any plan required under subparagraph (A) shall specify the steps that the institution or company will take to correct the deficiency. If the institution is undercapitalized, the plan may be part of a capital restoration plan.

"(C) DEADLINES FOR SUBMISSION AND REVIEW OF PLANS.— Regulations.
The appropriate Federal banking agency shall by regulation establish deadlines that—

"(i) provide institutions and companies with reasonable time to submit plans required under subparagraph (A), and generally require the institution or company to submit a plan not later than 30 days after the agency determines that the institution or company fails to meet any standard prescribed under subsection (a), (b), or (c); and

"(ii) require the agency to act on plans expeditiously, and generally not later than 30 days after the plan is submitted.

"(2) ORDER REQUIRED IF INSTITUTION OR COMPANY FAILS TO SUBMIT OR IMPLEMENT PLAN.—If an insured depository institution or depository institution holding company fails to submit an acceptable plan within the time allowed under paragraph (1)(C), or fails in any material respect to implement a plan accepted by the appropriate Federal banking agency, the agency, by order—

"(A) shall require the institution or company to correct the deficiency; and

"(B) may do 1 or more of the following until the deficiency has been corrected:

"(i) Prohibit the institution or company from permitting its average total assets during any calendar quarter to exceed its average total assets during the preceding calendar quarter, or restrict the rate at which the average total assets of the institution or company may increase from one calendar quarter to another.

"(ii) Require the institution or company to increase its ratio of tangible equity to assets.

"(iii) Take the action described in section 38(f)(2)(C).

"(iv) Require the institution or company to take any other action that the agency determines will better carry out the purpose of section 38 than any of the actions described in this subparagraph.

"(3) RESTRICTIONS MANDATORY FOR CERTAIN INSTITUTIONS.—In complying with paragraph (2), the appropriate Federal banking agency shall take 1 or more of the actions described in clauses (i) through (iii) of paragraph (2)(B) if—

"(A) the agency determines that the insured depository institution fails to meet any standard prescribed under subsection (a)(1) or (b)(1);

"(B) the institution has not corrected the deficiency; and

"(C) either—

"(i) during the 24-month period before the date on which the institution first failed to meet the standard—

"(I) the institution commenced operations; or

"(II) 1 or more persons acquired control of the institution; or

"(ii) during the 18-month period before the date on which the institution first failed to meet the standard, the institution underwent extraordinary growth, as defined by the agency.

"(f) DEFINITIONS.—For purposes of this section, the terms 'average' and 'capital restoration plan' have the same meanings as in section 38.

"(g) OTHER AUTHORITY NOT AFFECTED.—The authority granted by this section is in addition to any other authority of the Federal banking agencies.".

12 USC 1831s note.

(b) REGULATIONS REQUIRED.—Each appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) shall promulgate final regulations under section 39 of the Federal Deposit Insurance Act (as added by subsection (a)) not later than August 1, 1993.

12 USC 1831s note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the earlier of—

(1) the date on which final regulations promulgated in accordance with subsection (b) become effective; or

(2) December 1, 1993.

SEC. 133. CONSERVATORSHIP AND RECEIVERSHIP AMENDMENTS TO FACILITATE PROMPT REGULATORY ACTION.

(a) ADDITIONAL GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER; CONSISTENT STANDARDS FOR NATIONAL, STATE MEMBER, AND STATE NONMEMBER BANKS.—Section 11(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(5)) is amended to read as follows:

"(5) GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER.—The grounds for appointing a conservator or receiver (which may be the Corporation) for any insured depository institution are as follows:

"(A) ASSETS INSUFFICIENT FOR OBLIGATIONS.—The institution's assets are less than the institution's obligations to its creditors and others, including members of the institution.

"(B) SUBSTANTIAL DISSIPATION.—Substantial dissipation of assets or earnings due to—

"(i) any violation of any statute or regulation; or

"(ii) any unsafe or unsound practice.

"(C) UNSAFE OR UNSOUND CONDITION.—An unsafe or unsound condition to transact business.

"(D) CEASE AND DESIST ORDERS.—Any willful violation of a cease-and-desist order which has become final.

"(E) CONCEALMENT.—Any concealment of the institution's books, papers, records, or assets, or any refusal to submit the institution's books, papers, records, or affairs for inspection to any examiner or to any lawful agent of the appropriate Federal banking agency or State bank or savings association supervisor.

"(F) INABILITY TO MEET OBLIGATIONS.—The institution is likely to be unable to pay its obligations or meet its depositors' demands in the normal course of business.

"(G) LOSSES.—The institution has incurred or is likely to incur losses that will deplete all or substantially all of its capital, and there is no reasonable prospect for the institu-

tion to become adequately capitalized (as defined in section 38(b)) without Federal assistance.

"(H) VIOLATIONS OF LAW.—Any violation of any law or regulation, or any unsafe or unsound practice or condition that is likely to—

"(i) cause insolvency or substantial dissipation of assets or earnings;

"(ii) weaken the institution's condition; or

"(iii) otherwise seriously prejudice the interests of the institution's depositors or the deposit insurance fund.

"(I) CONSENT.—The institution, by resolution of its board of directors or its shareholders or members, consents to the appointment.

"(J) CESSATION OF INSURED STATUS.—The institution ceases to be an insured institution.

"(K) UNDERCAPITALIZATION.—The institution is undercapitalized (as defined in section 38(b)), and—

"(i) has no reasonable prospect of becoming adequately capitalized (as defined in that section);

"(ii) fails to become adequately capitalized when required to do so under section 38(f)(2)(A);

"(iii) fails to submit a capital restoration plan acceptable to that agency within the time prescribed under section 38(e)(2)(D); or

"(iv) materially fails to implement a capital restoration plan submitted and accepted under section 38(e)(2).

"(L) The institution—

"(i) is critically undercapitalized, as defined in section 38(b); or

"(ii) otherwise has substantially insufficient capital.".

(b) CONFORMING AMENDMENT TO AUTHORITY TO APPOINT RECEIVER FOR NATIONAL BANK.—Section 1 of the Act of June 30, 1876 (12 U.S.C. 191) is amended to read as follows:

"SECTION 1. The Comptroller of the Currency may, without prior notice or hearings, appoint the Federal Deposit Insurance Corporation as receiver for any national banking association if the Comptroller determines, in the Comptroller's discretion, that—

"(1) 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act exist; or

"(2) the association's board of directors consists of fewer than 5 members.".

(c) CONFORMING AMENDMENT TO THE BANK CONSERVATION ACT.—Section 203(a) of the Bank Conservation Act (12 U.S.C. 203(a)) is amended to read as follows:

"(a) APPOINTMENT.—The Comptroller of the Currency may, without prior notice or hearings, appoint a conservator (which may be the Federal Deposit Insurance Corporation) to the possession and control of a bank whenever the Comptroller of the Currency determines that 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act exist.".

(d) CONFORMING AMENDMENTS TO THE HOME OWNERS' LOAN ACT.—Section 5(d)(2) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(2)) is amended—

(1) by striking subparagraphs (A) through (D) and inserting the following:

"(A) GROUNDS FOR APPOINTING CONSERVATOR OR RECEIVER FOR INSURED SAVINGS ASSOCIATION.—The Director of the Office of Thrift Supervision may appoint a conservator or receiver for any insured savings association if the Director determines, in the Director's discretion, that 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act exists"; and

(2) by redesignating subparagraphs (E) through (I) as subparagraphs (B) through (F), respectively.

(e) ADDITIONAL PROVISIONS RELATING TO APPOINTMENT OF CONSERVATOR OR RECEIVER.—Section 11(c)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(9)) is amended to read as follows:

"(9) APPROPRIATE FEDERAL BANKING AGENCY MAY APPOINT CORPORATION AS CONSERVATOR OR RECEIVER FOR INSURED STATE DEPOSITORY INSTITUTION TO CARRY OUT SECTION 38.—

"(A) IN GENERAL.—The appropriate Federal banking agency may appoint the Corporation as sole receiver (or, subject to paragraph (11), sole conservator) of any insured State depository institution, after consultation with the appropriate State supervisor, if the appropriate Federal banking agency determines that—

"(i) 1 or more of the grounds specified in subparagraphs (K) and (L) of paragraph (5) exist with respect to that institution; and

"(ii) the appointment is necessary to carry out the purpose of section 38.

"(B) NONDELEGATION.—The appropriate Federal banking agency shall not delegate any action under subparagraph (A).

"(10) CORPORATION MAY APPOINT ITSELF AS CONSERVATOR OR RECEIVER FOR INSURED DEPOSITORY INSTITUTION TO PREVENT LOSS TO DEPOSIT INSURANCE FUND.—The Board of Directors may appoint the Corporation as sole conservator or receiver of an insured depository institution, after consultation with the appropriate Federal banking agency and the appropriate State supervisor (if any), if the Board of Directors determines that—

"(A) 1 or more of the grounds specified in any subparagraph of paragraph (5) exist with respect to the institution; and

"(B) the appointment is necessary to reduce—

"(i) the risk that the deposit insurance fund would incur a loss with respect to the insured depository institution, or

"(ii) any loss that the deposit insurance fund is expected to incur with respect to that institution.

"(11) APPROPRIATE FEDERAL BANKING AGENCY SHALL NOT APPOINT CONSERVATOR UNDER CERTAIN PROVISIONS WITHOUT GIVING CORPORATION OPPORTUNITY TO APPOINT RECEIVER.—The appropriate Federal banking agency shall not appoint a conservator for an insured depository institution under subparagraph (K) or (L) of paragraph (5) without the Corporation's consent unless the agency has given the Corporation 48 hours notice of the agency's intention to appoint the conservator and the grounds for the appointment.

"(12) DIRECTORS NOT LIABLE FOR ACQUIESCING IN APPOINTMENT OF CONSERVATOR OR RECEIVER.—The members of the board of directors of an insured depository institution shall not be liable

to the institution's shareholders or creditors for acquiescing in or consenting in good faith to—

"(A) the appointment of the Corporation or the Resolution Trust Corporation as conservator or receiver for that institution; or

"(B) an acquisition or combination under section 38(f)(2)(A)(iii).

"(13) ADDITIONAL POWERS.—In any case in which the Corporation is appointed conservator or receiver under paragraph (4), (6), (9), or (10) for any insured State depository institution—

"(A) subject to subparagraph (B), this section shall apply to the Corporation as conservator or receiver in the same manner and to the same extent as if that institution were a Federal depository institution for which the Corporation had been appointed conservator or receiver;

"(B) the Corporation shall apply the law of the State in which the institution is chartered insofar as that law gives the claims of depositors priority over those of other creditors or claimants; and

"(C) the Corporation as receiver of the institution may—

"(i) liquidate the institution in an orderly manner; and

"(ii) make any other disposition of any matter concerning the institution, as the Corporation determines is in the best interests of the institution, the depositors of the institution, and the Corporation.".

(f) CONFORMING AMENDMENT TO THE FEDERAL RESERVE ACT.—Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by adding at the end the following new subsection:

"(p) AUTHORITY TO APPOINT CONSERVATOR OR RECEIVER.—The Board may appoint the Federal Deposit Insurance Corporation as conservator or receiver for a State member bank under section 11(c)(9) of the Federal Deposit Insurance Act.".

(g) EFFECTIVE DATE.—The amendments made by this section shall become effective 1 year after the date of enactment of this Act. 12 USC 191 note.

Subtitle E—Least-Cost Resolution

SEC. 141. LEAST-COST RESOLUTION.

(a) LEAST-COST RESOLUTIONS REQUIRED.—

(1) IN GENERAL.—Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended—

(A) by redesignating paragraphs (5), (6), (7), (8), and (9), as paragraphs (6), (7), (8), (9), and (10), respectively;

(B) by redesignating subparagraph (B) of paragraph (4) as paragraph (5); and

(C) by amending paragraph (4) (as amended by subparagraph (B) of this paragraph) to read as follows:

"(4) LEAST-COST RESOLUTION REQUIRED.—

"(A) IN GENERAL.—Notwithstanding any other provision of this Act, the Corporation may not exercise any authority under this subsection or subsection (d), (f), (h), (i), or (k) with respect to any insured depository institution unless—

"(i) the Corporation determines that the exercise of such authority is necessary to meet the obligation of

the Corporation to provide insurance coverage for the insured deposits in such institution; and

"(ii) the total amount of the expenditures by the Corporation and obligations incurred by the Corporation (including any immediate and long-term obligation of the Corporation and any direct or contingent liability for future payment by the Corporation) in connection with the exercise of any such authority with respect to such institution is the least costly to the deposit insurance fund of all possible methods for meeting the Corporation's obligation under this section.

"(B) DETERMINING LEAST COSTLY APPROACH.—In determining how to satisfy the Corporation's obligations to an institution's insured depositors at the least possible cost to the deposit insurance fund, the Corporation shall comply with the following provisions:

"(i) PRESENT-VALUE ANALYSIS; DOCUMENTATION REQUIRED.—The Corporation shall—

"(I) evaluate alternatives on a present-value basis, using a realistic discount rate;

"(II) document that evaluation and the assumptions on which the evaluation is based, including any assumptions with regard to interest rates, asset recovery rates, asset holding costs, and payment of contingent liabilities; and

"(III) retain the documentation for not less than 5 years.

"(ii) FOREGONE TAX REVENUES.—Federal tax revenues that the Government would forego as the result of a proposed transaction, to the extent reasonably ascertainable, shall be treated as if they were revenues foregone by the deposit insurance fund.

"(C) TIME OF DETERMINATION.—

"(i) GENERAL RULE.—For purposes of this subsection, the determination of the costs of providing any assistance under paragraph (1) or (2) or any other provision of this section with respect to any depository institution shall be made as of the date on which the Corporation makes the determination to provide such assistance to the institution under this section.

"(ii) RULE FOR LIQUIDATIONS.—For purposes of this subsection, the determination of the costs of liquidation of any depository institution shall be made as of the earliest of—

"(I) the date on which a conservator is appointed for such institution;

"(II) the date on which a receiver is appointed for such institution; or

"(III) the date on which the Corporation makes any determination to provide any assistance under this section with respect to such institution.

"(D) LIQUIDATION COSTS.—In determining the cost of liquidating any depository institution for the purpose of comparing the costs under subparagraph (A) (with respect to such institution), the amount of such cost may not exceed the amount which is equal to the sum of the insured deposits of such institution as of the earliest of the dates

described in subparagraph (C), minus the present value of the total net amount the Corporation reasonably expects to receive from the disposition of the assets of such institution in connection with such liquidation.

"(E) DEPOSIT INSURANCE FUNDS AVAILABLE FOR INTENDED PURPOSE ONLY.—

"(i) IN GENERAL.—After December 31, 1994, or at such earlier time as the Corporation determines to be appropriate, the Corporation may not take any action, directly or indirectly, with respect to any insured depository institution that would have the effect of increasing losses to any insurance fund by protecting—

"(I) depositors for more than the insured portion of deposits (determined without regard to whether such institution is liquidated); or

"(II) creditors other than depositors.

"(ii) DEADLINE FOR REGULATIONS.—The Corporation shall prescribe regulations to implement clause (i) not later than January 1, 1994, and the regulations shall take effect not later than January 1, 1995. Effective date.

"(iii) PURCHASE AND ASSUMPTION TRANSACTIONS.—No provision of this subparagraph shall be construed as prohibiting the Corporation from allowing any person who acquires any assets or assumes any liabilities of any insured depository institution for which the Corporation has been appointed conservator or receiver to acquire uninsured deposit liabilities of such institution so long as the insurance fund does not incur any loss with respect to such deposit liabilities in an amount greater than the loss which would have been incurred with respect to such liabilities if the institution had been liquidated.

"(F) DISCRETIONARY DETERMINATIONS.—Any determination which the Corporation may make under this paragraph shall be made in the sole discretion of the Corporation.

"(G) SYSTEMIC RISK.—

"(i) EMERGENCY DETERMINATION BY SECRETARY OF THE TREASURY.—Notwithstanding subparagraphs (A) and (E), if, upon the written recommendation of the Board of Directors (upon a vote of not less than two-thirds of the members of the Board of Directors) and the Board of Governors of the Federal Reserve System (upon a vote of not less than two-thirds of the members of such Board), the Secretary of the Treasury (in consultation with the President) determines that—

"(I) the Corporation's compliance with subparagraphs (A) and (E) with respect to an insured depository institution would have serious adverse effects on economic conditions or financial stability; and

"(II) any action or assistance under this subparagraph would avoid or mitigate such adverse effects,

the Corporation may take other action or provide assistance under this section as necessary to avoid or mitigate such effects.

"(ii) REPAYMENT OF LOSS.—The Corporation shall recover the loss to the appropriate insurance fund arising from any action taken or assistance provided with respect to an insured depository institution under clause (i) expeditiously from 1 or more emergency special assessments on the members of the insurance fund (of which such institution is a member) equal to the product of—

"(I) an assessment rate established by the Corporation; and

"(II) the amount of each member's average total assets during the semiannual period, minus the sum of the amount of the member's average total tangible equity and the amount of the member's average total subordinated debt.

"(iii) DOCUMENTATION REQUIRED.—The Secretary of the Treasury shall—

"(I) document any determination under clause (i); and

"(II) retain the documentation for review under clause (iv).

Reports.

"(iv) GAO REVIEW.—The Comptroller General of the United States shall review and report to the Congress on any determination under clause (i), including—

"(I) the basis for the determination;

"(II) the purpose for which any action was taken pursuant to such clause; and

"(III) the likely effect of the determination and such action on the incentives and conduct of insured depository institutions and uninsured depositors.

"(v) NOTICE.—

"(I) IN GENERAL.—The Secretary of the Treasury shall provide written notice of any determination under clause (i) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(II) DESCRIPTION OF BASIS OF DETERMINATION.—The notice under subclause (I) shall include a description of the basis for any determination under clause (i).

"(H) RULE OF CONSTRUCTION.—No provision of law shall be construed as permitting the Corporation to take any action prohibited by paragraph (4) unless such provision expressly provides, by direct reference to this paragraph, that this paragraph shall not apply with respect to such action.".

12 USC 1823 note.

(2) ANNUAL GAO COMPLIANCE AUDIT.—The Comptroller General of the United States shall annually audit the Federal Deposit Insurance Corporation and the Resolution Trust Corporation to determine the extent to which such corporations are complying with section 13(c)(4) of the Federal Deposit Insurance Act.

(3) CLARIFICATION OF MANNER OF APPLICATION TO THE RTC.—Section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)) is amended—

(A) by striking "POWERS.—Except as" and inserting "POWERS.—

"(A) IN GENERAL.—Except as"; and

(B) by adding at the end the following new subparagraph:

"(B) MANNER OF APPLICATION OF LEAST-COST RESOLUTION.—For purposes of applying section 13(c)(4) of the Federal Deposit Insurance Act to the Corporation under subparagraph (A), the Corporation shall be treated as the affected deposit insurance fund.".

(b) SECURED CLAIMS IN EXCESS OF VALUE OF COLLATERAL.—Section 11(d)(5)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(5)(D)) is amended to read as follows:

"(D) AUTHORITY TO DISALLOW CLAIMS.—

"(i) IN GENERAL.—The receiver may disallow any portion of any claim by a creditor or claim of security, preference, or priority which is not proved to the satisfaction of the receiver.

"(ii) PAYMENTS TO LESS THAN FULLY SECURED CREDITORS.—In the case of a claim of a creditor against an insured depository institution which is secured by any property or other asset of such institution, any receiver appointed for any insured depository institution—

"(I) may treat the portion of such claim which exceeds an amount equal to the fair market value of such property or other asset as an unsecured claim against the institution; and

"(II) may not make any payment with respect to such unsecured portion of the claim other than in connection with the disposition of all claims of unsecured creditors of the institution.

"(iii) EXCEPTIONS.—No provision of this paragraph shall apply with respect to—

"(I) any extension of credit from any Federal home loan bank or Federal Reserve bank to any institution described in paragraph (3)(A); or

"(II) any security interest in the assets of the institution securing any such extension of credit.".

(c) DATA COLLECTIONS.—Section 7(a)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(8)) is amended to read as follows:

"(8) DATA COLLECTIONS.—In addition to or in connection with any other report required under this subsection, the Corporation shall take such action as may be necessary to ensure that—

"(A) each insured depository institution maintains; and

"(B) the Corporation receives on a regular basis from such institution,

information on the total amount of all insured deposits, preferred deposits, and uninsured deposits at the institution.".

(d) INDUSTRY IMPACT ANALYSIS REQUIRED.—

(1) IN GENERAL.—Section 11(h) of the Federal Deposit Insurance Act (12 U.S.C. 1821(h)) is amended by adding at the end the following new paragraph:

"(4) FINANCIAL SERVICES INDUSTRY IMPACT ANALYSIS.—After the appointment of the Corporation as conservator or receiver for any insured depository institution and before taking any action under this section or section 13 in connection with the resolution of such institution, the Corporation shall—

"(A) evaluate the likely impact of the means of resolution, and any action which the Corporation may take in connection with such resolution, on the viability of other insured depository institutions in the same community; and

"(B) take such evaluation into account in determining the means for resolving the institution and establishing the terms and conditions for any such action.".

(2) CLERICAL AMENDMENT.—The heading for section 11(h) of the Federal Deposit Insurance Act (12 U.S.C. 1821(h)) is amended by striking "LIQUIDATION" and inserting "RESOLUTION".

(e) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—Section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) is amended by redesignating paragraphs (8), (9), and (10) (as so redesignated by subsection (a)(1)(A) of this section), as paragraphs (9), (10), and (11), respectively, and by inserting after paragraph (7) the following new paragraph:

"(8) ASSISTANCE BEFORE APPOINTMENT OF CONSERVATOR OR RECEIVER.—

"(A) IN GENERAL.—Subject to the least-cost provisions of paragraph (4), the Corporation shall consider providing direct financial assistance under this section for depository institutions before the appointment of a conservator or receiver for such institution only under the following circumstances:

"(i) TROUBLED CONDITION CRITERIA.—The Corporation determines—

"(I) grounds for the appointment of a conservator or receiver exist or likely will exist in the future unless the depository institution's capital levels are increased; and

"(II) it is unlikely that the institution can meet all currently applicable capital standards without assistance.

"(ii) OTHER CRITERIA.—The depository institution meets the following criteria:

"(I) The appropriate Federal banking agency and the Corporation have determined that, during such period of time preceding the date of such determination as the agency or the Corporation considers to be relevant, the institution's management has been competent and has complied with applicable laws, rules, and supervisory directives and orders.

"(II) The institution's management did not engage in any insider dealing, speculative practice, or other abusive activity.

Federal Register, publication.

"(B) PUBLIC DISCLOSURE.—Any determination under this paragraph to provide assistance under this section shall be made in writing and published in the Federal Register.".

(f) DEFINITIONS.—Section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) is amended by adding at the end the following new paragraphs:

"(3) UNINSURED DEPOSITS.—The term 'uninsured deposit' means the amount of any deposit of any depositor at any insured depository institution in excess of the amount of the

insured deposits of such depositor (if any) at such depository institution.

"(4) PREFERRED DEPOSITS.—The term 'preferred deposits' means deposits of any public unit (as defined in paragraph (1)) at any insured depository institution which are secured or collateralized as required under State law.".

SEC. 142. FEDERAL RESERVE DISCOUNT WINDOW ADVANCES.

(a) REDESIGNATING SECTIONS 10(a) AND 10(b) OF THE FEDERAL RESERVE ACT.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended—

(1) by redesignating section 10(a) (12 U.S.C. 347a) as section 10A; and

(2) by redesignating section 10(b) (12 U.S.C. 347b) as section 10B.

(b) LIMITATIONS ON LIQUIDITY LENDING FOR DEPOSIT INSURANCE PURPOSES.—Section 10B of the Federal Reserve Act (as redesignated by subsection (a)) is amended—

(1) by striking "Any Federal Reserve bank" and inserting "(a) IN GENERAL.—Any Federal Reserve bank"; and

(2) by adding at the end the following:

"(b) LIMITATIONS ON ADVANCES.—

"(1) LIMITATION ON EXTENDED PERIODS.—Except as provided in paragraph (2), no advances to any undercapitalized depository institution by any Federal Reserve bank under this section may be outstanding for more than 60 days in any 120-day period.

"(2) VIABILITY EXCEPTION.—

"(A) IN GENERAL.—If—

"(i) the head of the appropriate Federal banking agency certifies in advance in writing to the Federal Reserve bank that any depository institution is viable; or

"(ii) the Board conducts an examination of any depository institution and the Chairman of the Board certifies in writing to the Federal Reserve bank that the institution is viable,

the limitation contained in paragraph (1) shall not apply during the 60-day period beginning on the date such certification is received.

"(B) EXTENSIONS OF PERIOD.—The 60-day period may be extended for additional 60-day periods upon receipt by the Federal Reserve bank of additional written certifications under subparagraph (A) with respect to each such additional period.

"(C) AUTHORITY TO ISSUE A CERTIFICATE OF VIABILITY MAY NOT BE DELEGATED.—The authority of the head of any agency to issue a written certification of viability under this paragraph may not be delegated to any other person.

"(D) EXTENDED ADVANCES SUBJECT TO PARAGRAPH (3).—Notwithstanding paragraph (1), an undercapitalized depository institution which does not have a certificate of viability in effect under this paragraph may have advances outstanding for more than 60 days in any 120-day period if the Board elects to treat—

"(i) such institution as critically undercapitalized under paragraph (3); and

"(ii) any such advance as an advance described in subparagraph (A)(i) of paragraph (3).

"(3) ADVANCES TO CRITICALLY UNDERCAPITALIZED DEPOSITORY INSTITUTIONS.—

"(A) LIABILITY FOR INCREASED LOSS.—Notwithstanding any other provision of this section, if—

"(i) in the case of any critically undercapitalized depository institution—

"(I) any advance under this section to such institution is outstanding without payment having been demanded as of the end of the 5-day period beginning on the date the institution becomes a critically undercapitalized depository institution; or

"(II) any new advance is made to such institution under this section after the end of such period; and

"(ii) after the end of that 5-day period, any deposit insurance fund in the Federal Deposit Insurance Corporation incurs a loss exceeding the loss that the Corporation would have incurred if it had liquidated that institution as of the end of that period,

the Board shall, subject to the limitations in subparagraph (B), be liable to the Federal Deposit Insurance Corporation for the excess loss, without regard to the terms of the advance or any collateral pledged to secure the advance.

"(B) LIMITATION ON EXCESS LOSS.—The liability of the Board under subparagraph (A) shall not exceed the lesser of the following:

"(i) The amount of the loss the Board or any Federal Reserve bank would have incurred on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A) if those increased advances had been unsecured.

"(ii) The interest received on the increases in the amount of advances made after the 5-day period referred to in subparagraph (A).

"(C) FEDERAL RESERVE TO PAY OBLIGATION.—The Board shall pay the Federal Deposit Insurance Corporation the amount of any liability of the Board under subparagraph (A).

"(D) REPORT.—The Board shall report to the Congress on any excess loss liability it incurs under subparagraph (A), as limited by subparagraph (B)(i), and the reasons therefore, not later than 6 months after incurring the liability.

"(4) NO OBLIGATION TO MAKE ADVANCES.—A Federal Reserve bank shall have no obligation to make, increase, renew, or extend any advance or discount under this Act to any depository institution.

"(5) DEFINITIONS.—

"(A) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(B) CRITICALLY UNDERCAPITALIZED.—The term 'critically undercapitalized' has the same meaning as in section 38 of the Federal Deposit Insurance Act.

"(C) DEPOSITORY INSTITUTION.—The term 'depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(D) UNDERCAPITALIZED DEPOSITORY INSTITUTION.—The term 'undercapitalized depository institution' means any depository institution which—

"(i) is undercapitalized, as defined in section 38 of the Federal Deposit Insurance Act; or

"(ii) has a composite CAMEL rating of 5 under the Uniform Financial Institutions Rating System (or an equivalent rating by any such agency under a comparable rating system) as of the most recent examination of such institution.

"(E) VIABLE.—A depository institution is 'viable' if the Board or the appropriate Federal banking agency determines, giving due regard to the economic conditions and circumstances in the market in which the institution operates, that the institution—

"(i) is not critically undercapitalized;

"(ii) is not expected to become critically undercapitalized; and

"(iii) is not expected to be placed in conservatorship or receivership.".

(c) BOARD'S AUTHORITY TO EXAMINE DEPOSITORY INSTITUTIONS AND AFFILIATES.—Section 11 of the Federal Reserve Act is amended by adding at the end the following: 12 USC 248.

"(n) To examine, at the Board's discretion, any depository institution, and any affiliate of such depository institution, in connection with any advance to, any discount of any instrument for, or any request for any such advance or discount by, such depository institution under this Act.".

(d) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect at the end of the 2-year period beginning on the date of enactment of this Act. 12 USC 347b note.

(e) CONFORMING AMENDMENTS REDESIGNATING SECTIONS 13a, 25(a), AND 25(b) OF THE FEDERAL RESERVE ACT.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended—

(1) by redesignating section 13a as section 13A; 12 USC 348–352.

(2) by redesignating section 25(a) as section 25A; and 12 USC 611 *et seq.*

(3) by redesignating section 25(b) as section 25B. 12 USC 632.

SEC. 143. EARLY RESOLUTION. 12 USC 1823 note.

(a) IN GENERAL.—It is the sense of the Congress that the Federal banking agencies should facilitate early resolution of troubled insured depository institutions whenever feasible if early resolution would have the least possible long-term cost to the deposit insurance fund, consistent with the least-cost and prompt corrective action provisions of the Federal Deposit Insurance Act.

(b) GENERAL PRINCIPLES.—In encouraging the Federal banking agencies to pursue early resolution strategies, the Congress contemplates that any resolution transaction under section 13(c) of that Act would observe the following general principles:

(1) COMPETITIVE NEGOTIATION.—The transaction should be negotiated competitively, taking into account the value of expediting the process.

(2) RESULTING INSTITUTION ADEQUATELY CAPITALIZED.—Any insured depository institution created or assisted in the trans-

action (hereafter the "resulting institution") and any institution acquiring the troubled institution should meet all applicable minimum capital standards.

(3) SUBSTANTIAL PRIVATE INVESTMENT.—The transaction should involve substantial private investment.

(4) CONCESSIONS.—Preexisting owners and debtholders of any troubled institution or its holding company should make substantial concessions.

(5) QUALIFIED MANAGEMENT.—Directors and senior management of the resulting institution should be qualified to perform their duties, and should not include individuals substantially responsible for the troubled institution's problems.

(6) FDIC'S PARTICIPATION.—The transaction should give the Federal Deposit Insurance Corporation an opportunity to participate in the success of the resulting institution.

(7) STRUCTURE OF TRANSACTION.—The transaction should, insofar as practical, be structured so that—

(A) the Federal Deposit Insurance Corporation—

(i) does not acquire a significant proportion of the troubled institution's problem assets;

(ii) succeeds to the interests of the troubled institution's preexisting owners and debtholders in proportion to the assistance the Corporation provides; and

(iii) limits the Corporation's assistance in term and amount; and

(B) new investors share risk with the Corporation.

(c) REPORT.—Two years after the date of enactment of this Act, the Federal Deposit Insurance Corporation shall submit a report to Congress analyzing the effect of early resolution on the deposit insurance funds.

Subtitle F—Federal Insurance for State Chartered Depository Institutions

SEC. 151. DEPOSITORY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE.

(a) ANNUAL INDEPENDENT AUDIT OF PRIVATE DEPOSIT INSURER; DISCLOSURE BY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE.—

(1) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new section:

12 USC 1831t.

"SEC. 40. DEPOSITORY INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE.

"(a) ANNUAL INDEPENDENT AUDIT OF PRIVATE DEPOSIT INSURERS.—

"(1) AUDIT REQUIRED.—Any private deposit insurer shall obtain an annual audit from an independent auditor using generally accepted auditing standards. The audit shall include a determination of whether the private deposit insurer follows generally accepted accounting principles and has set aside sufficient reserves for losses.

"(2) PROVIDING COPIES OF AUDIT REPORT.—

"(A) PRIVATE DEPOSIT INSURER.—The private deposit insurer shall provide a copy of the audit report—

"(i) to each depository institution the deposits of which are insured by the private deposit insurer, not later than 14 days after the audit is completed; and

"(ii) to the appropriate supervisory agency of each State in which such an institution receives deposits, not later than 7 days after the audit is completed.

"(B) DEPOSITORY INSTITUTION.—Any depository institution the deposits of which are insured by the private deposit insurer shall provide a copy of the audit report, upon request, to any current or prospective customer of the institution.

"(b) DISCLOSURE REQUIRED.—Any depository institution lacking Federal deposit insurance shall, within the United States, do the following:

"(1) PERIODIC STATEMENTS; ACCOUNT RECORDS.—Include conspicuously in all periodic statements of account, on each signature card, and on each passbook, certificate of deposit, or similar instrument evidencing a deposit a notice that the institution is not federally insured, and that if the institution fails, the Federal Government does not guarantee that depositors will get back their money.

"(2) ADVERTISING; PREMISES.—Include conspicuously in all advertising and at each place where deposits are normally received a notice that the institution is not federally insured.

"(3) ACKNOWLEDGMENT OF RISK.—Receive deposits only for the account of persons who have signed a written acknowledgment that the institution is not federally insured, and that if the institution fails, the Federal Government does not guarantee that they will get back their money.

"(c) MANNER AND CONTENT OF DISCLOSURE.—To ensure that current and prospective customers understand the risks involved in foregoing Federal deposit insurance, the Federal Trade Commission, by regulation or order, shall prescribe the manner and content of disclosure required under this section.

"(d) EXCEPTIONS FOR INSTITUTIONS NOT RECEIVING RETAIL DEPOSITS.—The Federal Trade Commission may, by regulation or order, make exceptions to subsection (b) for any depository institution that, within the United States, does not receive initial deposits of less than $100,000 from individuals who are citizens or residents of the United States, other than money received in connection with any draft or similar instrument issued to transmit money.

"(e) ELIGIBILITY FOR FEDERAL DEPOSIT INSURANCE.—

"(1) IN GENERAL.—Except as permitted by the Federal Trade Commission, in consultation with the Federal Deposit Insurance Corporation, no depository institution (other than a bank, including an unincorporated bank) lacking Federal deposit insurance may use the mails or any instrumentality of interstate commerce to receive or facilitate receiving deposits, unless the appropriate supervisor of the State in which the institution is chartered has determined that the institution meets all eligibility requirements for Federal deposit insurance, including—

"(A) in the case of an institution described in section 19(b)(1)(A)(iv) of the Federal Reserve Act, all eligibility requirements set forth in the Federal Credit Union Act and

regulations of the National Credit Union Administration; and

"(B) in the case of any other institution, all eligibility requirements set forth in this Act and regulations of the Corporation.

"(2) AUTHORITY OF FDIC AND NCUA NOT AFFECTED.—No determination under paragraph (1) shall bind, or otherwise affect the authority of, the National Credit Union Administration or the Corporation.

"(f) DEFINITIONS.—For purposes of this section:

"(1) APPROPRIATE SUPERVISOR.—The 'appropriate supervisor' of a depository institution means the agency primarily responsible for supervising the institution.

"(2) DEPOSITORY INSTITUTION.—The term 'depository institution' includes—

"(A) any entity described in section 19(b)(1)(A)(iv) of the Federal Reserve Act; and

"(B) any entity that, as determined by the Federal Trade Commission—

"(i) is engaged in the business of receiving deposits; and

"(ii) could reasonably be mistaken for a depository institution by the entity's current or prospective customers.

"(3) LACKING FEDERAL DEPOSIT INSURANCE.—A depository institution lacks Federal deposit insurance if the institution is not either—

"(A) an insured depository institution; or

"(B) an insured credit union, as defined in section 101 of the Federal Credit Union Act.

"(4) PRIVATE DEPOSIT INSURER.—The term 'private deposit insurer' means any entity insuring the deposits of any depository institution lacking Federal deposit insurance.

"(g) ENFORCEMENT.—Compliance with the requirements of this section, and any regulation prescribed or order issued under this section, shall be enforced under the Federal Trade Commission Act by the Federal Trade Commission.".

12 USC 1831t note.

(2) EFFECTIVE DATES.—Section 40 of the Federal Deposit Insurance Act (as added by paragraph (1)) shall become effective on the date of enactment of this Act, except that—

(A) paragraphs (1) and (2) of subsection (b) shall become effective 1 year after the date of enactment of this Act;

(B) during the period beginning 1 year after that date of enactment of this Act and ending 30 months after that date of enactment, subsection (b)(1) shall apply with ", and that if the institution fails, the Federal Government does not guarantee that depositors will get back their money" omitted;

(C) subsection (e) shall become effective 2 years after that date of enactment; and

(D) subsection (b)(3) shall become effective 30 months after that date of enactment.

12 USC 1831e note.

(3) CONFORMING AMENDMENT TO FEDERAL DEPOSIT INSURANCE ACT.—Effective 1 year after the date of enactment of this Act, section 28 of the Federal Deposit Insurance Act (12 U.S.C. 1831e) is amended—

(A) by striking subsection (h); and

(B) by redesignating subsection (i) as subsection (h).

(b) VIABILITY OF PRIVATE DEPOSIT INSURERS.— 12 USC 1831t note.

(1) DEADLINE FOR INITIAL INDEPENDENT AUDIT.—The initial annual audit under section 40(a)(1) of the Federal Deposit Insurance Act (as added by subsection (a)) shall be completed not later than 120 days after the date of enactment of this Act.

(2) BUSINESS PLAN REQUIRED.—Not later than 240 days after the date of enactment of this Act, any private deposit insurer shall provide a business plan to each appropriate supervisor of each State in which deposits are received by any depository institution lacking Federal deposit insurance the deposits of which are insured by a private deposit insurer. The business plan shall explain in detail why the private deposit insurer is viable, and shall, at a minimum—

(A) describe the insurer's—

(i) underwriting standards;

(ii) resources, including trends in and forecasts of assets, income, and expenses;

(iii) risk-management program, including examination and supervision, problem case resolution, and remedies; and

(B) include, for the preceding 5 years, copies of annual audits, annual reports, and annual meeting agendas and minutes.

(3) DEFINITIONS.—For purposes of this subsection, the terms "appropriate supervisor", "deposit", "depository institution", and "lacking Federal deposit insurance" have the same meaning as in section 40(f) of the Federal Deposit Insurance Act (as added by subsection (a)).

Subtitle G—Technical Corrections

SEC. 161. TECHNICAL CORRECTIONS AND CLARIFICATIONS.

(a) SECTION 11 OF THE FEDERAL DEPOSIT INSURANCE ACT.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended—

(1) in subsection (d)(3)(A), by striking "(4)(A)" and inserting "(4)";

(2) in subsection (d)(11)(B), by striking "(14)(C)" and inserting "(15)(B)";

(3) in subsection (e)(3)(C)(ii), by striking "subsection (k)" and inserting "subsection (i)";

(4) in subsection (e)(4)(B)(iii), by striking "subsection (k)" and inserting "subsection (i)";

(5) in subparagraphs (A) and (E) of subsection (e)(8), by striking "subsections (d)(9) and (i)(4)(I)" and inserting "subsection (d)(9)";

(6) in subsection (n)(9), by striking "(13)" and inserting "(12)"; and

(7) in subsection (n)(11)(D), by striking "(8)" and inserting "(9)".

(b) CLARIFICATION OF FDIC POWERS IN FSLIC RESOLUTION FUND CONSERVATORSHIPS AND RECEIVERSHIPS.—Section 11A(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821a(a)) is amended by adding at the end the following new paragraphs:

Effective date.

"(4) RIGHTS, POWERS, AND DUTIES.—Effective August 10, 1989, the Corporation shall have all rights, powers, and duties to carry out the Corporation's duties with respect to the assets and liabilities of the FSLIC Resolution Fund that the Corporation otherwise has under this Act.

"(5) CORPORATION AS CONSERVATOR OR RECEIVER.—

"(A) IN GENERAL.—Effective August 10, 1989, the Corporation shall succeed the Federal Savings and Loan Insurance Corporation as conservator or receiver with respect to any depository institution—

"(i) the accounts of which were insured before August 10, 1989 by the Federal Savings and Loan Insurance Corporation; and

"(ii) for which a conservator or receiver was appointed before January 1, 1989.

"(B) RIGHTS, POWERS, AND DUTIES.—When acting as conservator or receiver with respect to any depository institution described in subparagraph (A), the Corporation shall have all rights, powers, and duties that the Corporation otherwise has as conservator or receiver under this Act.".

(c) CLERICAL AMENDMENT TO SUBSECTION HEADING.—The heading for section 3(w) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)) is amended by striking "HOLDING COMPANIES" and inserting "AFFILIATES OF DEPOSITORY INSTITUTIONS".

(d) FDIC REMOVAL PERIOD MADE CONSISTENT WITH RTC PERIOD.—Section 9(b)(2)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1819(b)(2)(B)) is amended by inserting "before the end of the 90-day period beginning on the date the action, suit, or proceeding is filed against the Corporation or the Corporation is substituted as a party" before the period.

(e) CLARIFICATION OF FDIC AUTHORITY TO PAY DE MINIMUS CLAIMS.—The second sentence of section 11(i)(3)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(i)(3)(A)) is amended by striking "The" and inserting "Notwithstanding any other provision of Federal or State law, or the constitution of any State, the".

(f) CLERICAL AMENDMENT TO SECTION HEADING.—

(1) The heading for section 219 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended by striking "**FROM TAXATION**".

(2) The table of contents for the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended by striking "from taxation" in the item relating to section 219.

TITLE II—REGULATORY IMPROVEMENT

Subtitle A—Regulation of Foreign Banks

Foreign Bank Supervision Enhancement Act of 1991. 12 USC 3101 note.

SEC. 201. SHORT TITLE.

This subtitle may be cited as the "Foreign Bank Supervision Enhancement Act of 1991".

SEC. 202. REGULATION OF FOREIGN BANK OPERATIONS.

(a) ESTABLISHMENT AND TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—Section 7 of the International Banking Act

of 1978 (12 U.S.C. 3105) is amended by striking subsection (d) and inserting the following new subsections:

"(d) ESTABLISHMENT OF FOREIGN BANK OFFICES IN THE UNITED STATES.—

"(1) PRIOR APPROVAL REQUIRED.—No foreign bank may establish a branch or an agency, or acquire ownership or control of a commercial lending company, without the prior approval of the Board.

"(2) REQUIRED STANDARDS FOR APPROVAL.—The Board may not approve an application under paragraph (1) unless it determines that—

"(A) the foreign bank engages directly in the business of banking outside of the United States and is subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country; and

"(B) the foreign bank has furnished to the Board the information it needs to adequately assess the application.

"(3) STANDARDS FOR APPROVAL.—In acting on any application under paragraph (1), the Board may take into account—

"(A) whether the appropriate authorities in the home country of the foreign bank have consented to the proposed establishment of a branch, agency or commercial lending company in the United States by the foreign bank;

"(B) the financial and managerial resources of the foreign bank, including the bank's experience and capacity to engage in international banking;

"(C) whether the foreign bank has provided the Board with adequate assurances that the bank will make available to the Board such information on the operations or activities of the foreign bank and any affiliate of the bank that the Board deems necessary to determine and enforce compliance with this Act, the Bank Holding Company Act of 1956, and other applicable Federal law; and

"(D) whether the foreign bank and the United States affiliates of the bank are in compliance with applicable United States law.

"(4) FACTOR.—In acting on an application under paragraph (1), the Board shall not make the size of the foreign bank the sole determinant factor, and may take into account the needs of the community as well as the length of operation of the foreign bank and its relative size in its home country. Nothing in this paragraph shall affect the ability of the Board to order a State branch, agency, or commercial lending company subsidiary to terminate its activities in the United States pursuant to any standard set forth in this Act.

"(5) ESTABLISHMENT OF CONDITIONS.—Consistent with the standards for approval in paragraph (2), the Board may impose such conditions on its approval under this subsection as it deems necessary.

"(e) TERMINATION OF FOREIGN BANK OFFICES IN THE UNITED STATES.—

"(1) STANDARDS FOR TERMINATION.—The Board, after notice and opportunity for hearing and notice to any appropriate State bank supervisor, may order a foreign bank that operates a State branch or agency or commercial lending company subsidiary in

the United States to terminate the activities of such branch, agency, or subsidiary if the Board finds that—

"(A) the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in its home country; or

"(B)(i) there is reasonable cause to believe that such foreign bank, or any affiliate of such foreign bank, has committed a violation of law or engaged in an unsafe or unsound banking practice in the United States; and

"(ii) as a result of such violation or practice, the continued operation of the foreign bank's branch, agency or commercial lending company subsidiary in the United States would not be consistent with the public interest or with the purposes of this Act, the Bank Holding Company Act of 1956, or the Federal Deposit Insurance Act.

However, in making findings under this paragraph, the Board shall not make size the sole determinant factor, and may take into account the needs of the community as well as the length of operation of the foreign bank and its relative size in its home country. Nothing in this paragraph shall affect the ability of the Board to order a State branch, agency, or commercial lending company subsidiary to terminate its activities in the United States pursuant to any standard set forth in this Act.

"(2) DISCRETION TO DENY HEARING.—The Board may issue an order under paragraph (1) without providing for an opportunity for a hearing if the Board determines that expeditious action is necessary in order to protect the public interest.

"(3) EFFECTIVE DATE OF TERMINATION ORDER.—An order issued under paragraph (1) shall take effect before the end of the 120-day period beginning on the date such order is issued unless the Board extends such period.

"(4) COMPLIANCE WITH STATE AND FEDERAL LAW.—Any foreign bank required to terminate activities conducted at offices or subsidiaries in the United States pursuant to this subsection shall comply with the requirements of applicable Federal and State law with respect to procedures for the closure or dissolution of such offices or subsidiaries.

"(5) RECOMMENDATION TO AGENCY FOR TERMINATION OF A FEDERAL BRANCH OR AGENCY.—The Board may transmit to the Comptroller of the Currency a recommendation that the license of any Federal branch or Federal agency of a foreign bank be terminated in accordance with section 4(i) if the Board has reasonable cause to believe that such foreign bank or any affiliate of such foreign bank has engaged in conduct for which the activities of any State branch or agency may be terminated under paragraph (1).

"(6) ENFORCEMENT OF ORDERS.—

"(A) IN GENERAL.—In the case of contumacy of any office or subsidiary of the foreign bank against which the Board or, in the case of an order issued under section 4(i), the Comptroller of the Currency has issued an order under paragraph (1) or a refusal by such office or subsidiary to comply with such order, the Board or the Comptroller of the Currency may invoke the aid of the district court of the United States within the jurisdiction of which the office or subsidiary is located.

"(B) COURT ORDER.—Any court referred to in subparagraph (A) may issue an order requiring compliance with an order issued under paragraph (1).

"(7) CRITERIA RELATING TO FOREIGN SUPERVISION.—Not later than 1 year after the date of enactment of this subsection, the Board, in consultation with the Secretary of the Treasury, shall develop and publish criteria to be used in evaluating the operation of any foreign bank in the United States that the Board has determined is not subject to comprehensive supervision or regulation on a consolidated basis. In developing such criteria, the Board shall allow reasonable opportunity for publc review and comment.

"(f) JUDICIAL REVIEW.—

"(1) JURISDICTION OF UNITED STATES COURTS OF APPEALS.—Any foreign bank—

"(A) whose application under subsection (d) or section 10(a) has been disapproved by the Board;

"(B) against which the Board has issued an order under subsection (e) or section 10(b); or

"(C) against which the Comptroller of the Currency has issued an order under section 4(i) of this Act,

may obtain a review of such order in the United States court of appeals for any circuit in which such foreign bank operates a branch, agency, or commercial lending company that has been required by such order to terminate its activities, or in the United States Court of Appeals for the District of Columbia Circuit, by filing a petition for review in the court before the end of the 30-day period beginning on the date the order was issued.

"(2) SCOPE OF JUDICIAL REVIEW.—Section 706 of title 5, United States Code (other than paragraph (2)(F) of such section) shall apply with respect to any review under paragraph (1).

"(g) CONSULTATION WITH STATE BANK SUPERVISOR.—The Board shall request and consider any views of the appropriate State bank supervisor with respect to any application or action under subsection (d) or (e).

"(h) LIMITATIONS ON POWERS OF STATE BRANCHES AND AGENCIES.—

"(1) IN GENERAL.—After the end of the 1-year period beginning on the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, a State branch or State agency may not engage in any type of activity that is not permissible for a Federal branch unless—

"(A) the Board has determined that such activity is consistent with sound banking practice; and

"(B) in the case of an insured branch, the Federal Deposit Insurance Corporation has determined that the activity would pose no significant risk to the deposit insurance fund.

"(2) SINGLE BORROWER LENDING LIMIT.—A State branch or State agency shall be subject to the same limitations with respect to loans made to a single borrower as are applicable to a Federal branch or Federal agency under section 4(b).

"(3) OTHER AUTHORITY NOT AFFECTED.—This section does not limit the authority of the Board or any State supervisory authority to impose more stringent restrictions.".

(b) STANDARDS FOR APPROVAL OF FEDERAL BRANCHES AND AGENCIES.—Section 4(a) of the International Banking Act of 1978 (12 U.S.C. 3102(a)) is amended—

(1) by striking "(a) Except as provided in section 5," and inserting "(a) ESTABLISHMENT AND OPERATION OF FEDERAL BRANCHES AND AGENCIES.—

"(1) INITIAL FEDERAL BRANCH OR AGENCY.—Except as provided in section 5,"; and

(2) by adding at the end the following new paragraph:

"(2) BOARD CONDITIONS REQUIRED TO BE INCLUDED.—In considering any application for approval under this subsection, the Comptroller of the Currency shall include any condition imposed by the Board under section 7(d)(5) as a condition for the approval of such application by the agency.".

(c) STANDARDS FOR APPROVAL OF ADDITIONAL FEDERAL BRANCHES AND AGENCIES.—Section 4(h) of the International Banking Act of 1978 (12 U.S.C. 3102(h)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking "(h) A foreign bank" and inserting "(h) ADDITIONAL BRANCHES OR AGENCIES.—

"(1) APPROVAL OF AGENCY REQUIRED.—A foreign bank"; and

(3) by adding at the end the following new paragraph:

"(2) NOTICE TO AND COMMENT BY BOARD.—The Comptroller of the Currency shall provide the Board with notice and an opportunity for comment on any application to establish an additional Federal branch or Federal agency under this subsection.".

(d) DISAPPROVAL FOR FAILURE TO AGREE TO PROVIDE NECESSARY INFORMATION.—Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking "(c) The Board shall" and inserting "(c) FACTORS FOR CONSIDERATION BY BOARD.—

"(1) COMPETITIVE FACTORS.—The Board shall";

(3) by striking "In every case" and inserting "(2) BANKING AND COMMUNITY FACTORS.—In every case";

(4) by striking "community to be served. Notwithstanding any other provision of law" and inserting "community to be served.

"(4) TREATMENT OF CERTAIN BANK STOCK LOANS.—Notwithstanding any other provision of law"; and

(5) by inserting after paragraph (2) (as so designated by paragraph (3) of this subsection) the following new paragraph:

"(3) SUPERVISORY FACTORS.—The Board shall disapprove any application under this section by any company if—

"(A) the company fails to provide the Board with adequate assurances that the company will make available to the Board such information on the operations or activities of the company, and any affiliate of the company, as the Board determines to be appropriate to determine and enforce compliance with this Act; or

"(B) in the case of an application involving a foreign bank, the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank's home country.".

(e) CONFORMING AMENDMENTS.—

(1) AFFILIATE DEFINED.—Section 1(b)(13) of the International Banking Act of 1978 (12 U.S.C. 3101(13)) is amended by inserting " 'affiliate,' " after "the terms" the 1st place such term appears.

(2) DEFINITIONS.—Section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101(b)) is amended—

(A) by striking "and" at the end of paragraph (13);

(B) by striking the period at the end of paragraph (14) and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

"(15) the term 'representative office' means any office of a foreign bank which is located in any State and is not a Federal branch, Federal agency, State branch, State agency, or subsidiary of a foreign bank;

"(16) the term 'office' means any branch, agency, or representative office; and

"(17) the term 'State bank supervisor' has the meaning given to such term in section 3 of the Federal Deposit Insurance Act.".

SEC. 203. CONDUCT AND COORDINATION OF EXAMINATIONS.

(a) AUTHORITY OF BOARD TO CONDUCT AND COORDINATE EXAMINATIONS.—Section 7(c) of the International Banking Act of 1978 (12 U.S.C. 3105(b)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) EXAMINATION OF BRANCHES, AGENCIES, AND AFFILIATES.—

"(A) IN GENERAL.—The Board may examine each branch or agency of a foreign bank, each commercial lending company or bank controlled by 1 or more foreign banks or 1 or more foreign companies that control a foreign bank, and other office or affiliate of a foreign bank conducting business in any State.

"(B) COORDINATION OF EXAMINATIONS.—

"(i) IN GENERAL.—The Board shall coordinate examinations under this paragraph with the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and appropriate State bank supervisors to the extent such coordination is possible.

"(ii) SIMULTANEOUS EXAMINATIONS.—The Board may request simultaneous examinations of each office of a foreign bank and each affiliate of such bank operating in the United States.

"(C) ANNUAL ON-SITE EXAMINATION.—Each branch or agency of a foreign bank shall be examined at least once during each 12-month period (beginning on the date the most recent examination of such branch or agency ended) in an on-site examination.

"(D) COST OF EXAMINATIONS.—The cost of any examination under subparagraph (A) shall be assessed against and collected from the foreign bank or the foreign company that controls the foreign bank, as the case may be."; and

(2) in paragraph (2), by inserting "REPORTING REQUIREMENTS.—" before "Each branch".

(b) COORDINATION OF EXAMINATIONS.—Section 4(b) of the International Banking Act of 1978 (12 U.S.C. 3102(b)) is amended by adding at the end thereof the following new sentence: "The Comptroller of the Currency shall coordinate examinations of Federal branches and agencies of foreign banks with examinations

conducted by the Board under section 7(c)(1) and, to the extent possible, shall participate in any simultaneous examinations of the United States operations of a foreign bank requested by the Board under such section.".

(c) PARTICIPATION IN COORDINATED EXAMINATIONS.—

(1) IN GENERAL.—Section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) EXAMINATION OF INSURED STATE BRANCHES.—The Board of Directors shall—

"(A) coordinate examinations of insured State branches of foreign banks with examinations conducted by the Board of Governors of the Federal Reserve System under section 7(c)(1) of the International Banking Act of 1978; and

"(B) to the extent possible, participate in any simultaneous examination of the United States operations of a foreign bank requested by the Board under such section.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Paragraph (6) of section 10(b) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)) (as so redesignated under paragraph (1) of this subsection) by striking "or (4)" and inserting "(4), or (5)".

SEC. 204. SUPERVISION OF THE REPRESENTATIVE OFFICES OF FOREIGN BANKS.

Section 10 of the International Banking Act of 1978 (12 U.S.C. 3107) is amended to read as follows:

"SEC. 10. REPRESENTATIVE OFFICES.

"(a) PRIOR APPROVAL TO ESTABLISH REPRESENTATIVE OFFICES.—

"(1) IN GENERAL.—No foreign bank may establish a representative office without the prior approval of the Board.

"(2) STANDARDS FOR APPROVAL.—In acting on any application under this paragraph to establish a representative office, the Board shall take into account the standards contained in section 7(d)(2) and may impose any additional requirements that the Board determines to be necessary to carry out the purposes of this Act.

"(b) TERMINATION OF REPRESENTATIVE OFFICES.—The Board may order the termination of the activities of a representative office of a foreign bank on the basis of the standards, procedures, and requirements applicable under paragraphs (1), (2), and (3) of section 7(d) with respect to branches and agencies.

"(c) EXAMINATIONS.—The Board may make examinations of each representative office of a foreign bank, the cost of which shall be assessed against and paid by such foreign bank.

"(d) COMPLIANCE WITH STATE LAW.—This Act does not authorize the establishment of a representative office in any State in contravention of State law.".

SEC. 205. REPORTING OF STOCK LOANS.

Section 7(j)(9) of the Federal Deposit Insurance Act (12 U.S.C. 1817(j)(9)) is amended to read as follows:

"(9) REPORTING OF STOCK LOANS.—

"(A) REPORT REQUIRED.—Any financial institution and any affiliate of any financial institution that has credit outstanding to any person or group of persons which is

secured, directly or indirectly, by shares of an insured depository institution shall file a consolidated report with the appropriate Federal banking agency for such insured depository institution if the extensions of credit by the financial institution and such institution's affiliates, in the aggregate, are secured, directly or indirectly, by 25 percent or more of any class of shares of the same insured depository institution.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) FINANCIAL INSTITUTION.—The term 'financial institution' means any insured depository institution and any foreign bank that is subject to the provisions of the Bank Holding Company Act of 1956 by virtue of section 8(a) of the International Banking Act of 1978.

"(ii) CREDIT OUTSTANDING.—The term 'credit outstanding' includes—

"(I) any loan or extension of credit,

"(II) the issuance of a guarantee, acceptance, or letter of credit, including an endorsement or standby letter of credit, and

"(III) any other type of transaction that extends credit or financing to the person or group of persons.

"(iii) GROUP OF PERSONS.—The term 'group of persons' includes any number of persons that the financial institution reasonably believes—

"(I) are acting together, in concert, or with one another to acquire or control shares of the same insured depository institution, including an acquisition of shares of the same insured depository institution at approximately the same time under substantially the same terms; or

"(II) have made, or propose to make, a joint filing under section 13 of the Securities Exchange Act of 1934 regarding ownership of the shares of the same insured depository institution.

"(C) INCLUSION OF SHARES HELD BY THE FINANCIAL INSTITUTION.—Any shares of the insured depository institution held by the financial institution or any of its affiliates as principal shall be included in the calculation of the number of shares in which the financial institution or its affiliates has a security interest for purposes of subparagraph (A).

"(D) REPORT REQUIREMENTS.—

"(i) TIMING OF REPORT.—The report required under this paragraph shall be a consolidated report on behalf of the financial institution and all affiliates of the institution, and shall be filed in writing within 30 days of the date on which the financial institution or any such affiliate first believes that the security for any outstanding credit consists of 25 percent or more of any class of shares of an insured depository institution.

"(ii) CONTENT OF REPORT.—The report under this paragraph shall indicate the number and percentage of shares securing each applicable extension of credit, the identity of the borrower, and the number of shares held as principal by the financial institution and any affiliate of such institution.

"(iii) COPY TO OTHER AGENCIES.—A copy of any report under this paragraph shall be filed with the appropriate Federal banking agency for the financial institution (if other than the agency receiving the report under this paragraph).

"(iv) OTHER INFORMATION.—Each appropriate Federal banking agency may require any additional information necessary to carry out the agency's supervisory responsibilities.

"(E) EXCEPTIONS.—

"(i) EXCEPTION WHERE INFORMATION PROVIDED BY BORROWER.—Notwithstanding subparagraph (A), a financial institution and the affiliates of such institution shall not be required to report a transaction under this paragraph if the person or group of persons referred to in such subparagraph has disclosed the amount borrowed from such institution or affiliate and the security interest of the institution or affiliate to the appropriate Federal banking agency for the insured depository institution in connection with a notice filed under this subsection, an application filed under the Bank Holding Company Act of 1956, section 10 of the Home Owners' Loan Act, or any other application filed with the appropriate Federal banking agency for the insured depository institution as a substitute for a notice under this subsection, such as an application for deposit insurance, membership in the Federal Reserve System, or a national bank charter.

"(ii) EXCEPTION FOR SHARES OWNED FOR MORE THAN 1 YEAR.—Notwithstanding subparagraph (A), a financial institution and any affiliate of such institution shall not be required to report a transaction involving—

"(I) a person or group of persons that has been the owner or owners of record of the stock for a period of 1 year or more; or

"(II) stock issued by a newly chartered bank before the bank's opening.".

SEC. 206. COOPERATION WITH FOREIGN SUPERVISORS.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following new section:

12 USC 3109.

"SEC. 15. COOPERATION WITH FOREIGN SUPERVISORS.

"(a) DISCLOSURE OF SUPERVISORY INFORMATION TO FOREIGN SUPERVISORS.—Notwithstanding any other provision of law, the Board, Comptroller of the Currency, Federal Deposit Insurance Corporation, and Director of the Office of Thrift Supervision may disclose information obtained in the course of exercising supervisory or examination authority to any foreign bank regulatory or supervisory authority if the Board, Comptroller, Corporation, or Director determines that such disclosure is appropriate and will not prejudice the interests of the United States.

"(b) REQUIREMENT OF CONFIDENTIALITY.—Before making any disclosure of any information to a foreign authority, the Board, Comptroller of the Currency, Federal Deposit Insurance Corporation, and Director of the Office of Thrift Supervision shall obtain, to the extent necessary, the agreement of such foreign authority to

maintain the confidentiality of such information to the extent possible under applicable law.".

SEC. 207. APPROVAL REQUIRED FOR ACQUISITION BY FOREIGN BANKS OF SHARES OF UNITED STATES BANKS.

Section 8(a) of the International Banking Act of 1978 (12 U.S.C. 3106(a)) is amended by striking "thereto" and all that follows through the period and inserting "to such provisions.".

SEC. 208. PENALTIES.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by inserting after section 15 (as added by section 206 of this subtitle) the following new section:

"SEC. 16. PENALTIES. 12 USC 3110.

"(a) CIVIL MONEY PENALTY.—

"(1) IN GENERAL.—Any foreign bank, and any office or subsidiary of a foreign bank, that violates, and any individual who participates in a violation of, any provision of this Act, or any regulation prescribed or order issued under this Act, shall forfeit and pay a civil penalty of not more than $25,000 for each day during which such violation continues.

"(2) ASSESSMENT PROCEDURES.—Any penalty imposed under paragraph (1) may be assessed and collected by the Board or the Comptroller of the Currency in the manner provided in subparagraphs (E), (F), (G), (H), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act for penalties imposed (under such section), and any such assessments shall be subject to the provisions of such section.

"(3) HEARING PROCEDURE.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this section.

"(4) DISBURSEMENT.—All penalties collected under authority of this section shall be deposited into the Treasury.

"(5) VIOLATE DEFINED.—For purposes of this section, the term 'violate' includes taking any action (alone or with others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

"(6) REGULATIONS.—The Board and the Comptroller of the Currency shall each prescribe regulations establishing such procedures as may be necessary to carry out this section.

"(b) NOTICE UNDER THIS SECTION AFTER SEPARATION FROM SERVICE.—The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 3(u) of the Federal Deposit Insurance Act) with respect to a foreign bank, or any office or subsidiary of a foreign bank (including a separation caused by the termination of a location in the United States), shall not affect the jurisdiction or authority of the Board or the Comptroller of the Currency to issue any notice or to proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be an institution-affiliated party with respect to such foreign bank or such office or subsidiary of a foreign bank (whether such date occurs on, before, or after the date of the enactment of the Foreign Bank Supervision Enhancement Act of 1991).

"(c) PENALTY FOR FAILURE TO MAKE REPORTS.—

"(1) FIRST TIER.—Any foreign bank, or any office or subsidiary of a foreign bank, that—

"(A) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such error—

"(i) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the Board or the Comptroller of the Currency under this Act, within the period of time specified by the agency; or

"(ii) submits or publishes any false or misleading report or information; or

"(B) inadvertently transmits or publishes any report that is minimally late,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false or misleading information is not corrected. The foreign bank, or the office or subsidiary of a foreign bank, shall have the burden of proving that an error was inadvertent and that a report was inadvertently transmitted or published late.

"(2) SECOND TIER.—Any foreign bank, or any office or subsidiary of a foreign bank, that—

"(A) fails to make, submit, or publish such reports or information as may be required under this Act or under regulations prescribed by the Board or the Comptroller of the Currency pursuant to this Act, within the time period specified by such agency; or

"(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (1) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false or misleading information is not corrected.

"(3) THIRD TIER.—Notwithstanding paragraph (2), if any company knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (2) submits or publishes any false or misleading report or information, the Board or the Comptroller of the Currency may, in the Board's or Comptroller's discretion, assess a penalty of not more than $1,000,000 or 1 percent of total assets of such foreign bank, or such office or subsidiary of a foreign bank, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

"(4) ASSESSMENT OF PENALTIES.—Any penalty imposed under paragraph (1), (2), or (3) shall be assessed and collected by the Board or the Comptroller of the Currency in the manner provided in subsection (a)(2) (for penalties imposed under such subsection) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

"(5) HEARING PROCEDURE.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.".

SEC. 209. POWERS OF AGENCIES RESPECTING APPLICATIONS, EXAMINATIONS, AND OTHER PROCEEDINGS.

Section 13(b) of the International Banking Act of 1978 (12 U.S.C. 3108(b)) is amended—

(1) by striking "(b) In addition to" and inserting "(b) ENFORCEMENT.—

"(1) IN GENERAL.—In addition to";

(2) by adding at the end the following new paragraphs:

"(2) AUTHORITY TO ADMINISTER OATHS; SUBPOENA POWER.—In the course of, or in connection with, an application, examination, investigation, or other proceeding under this Act, the Board, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, as the case may be, any member of the Board or of the Board of Directors of the Corporation, and any designated representative of the Board, Comptroller, or Corporation (including any person designated to conduct any hearing under this Act) may—

"(A) administer oaths and affirmations and take or cause to be taken depositions; and

"(B) issue, revoke, quash, or modify any subpoena, including any subpoena requiring the attendance and testimony of a witness or any subpoenas duces tecum.

"(3) ADMINISTRATIVE ASPECTS OF SUBPOENAS.—

"(A) ATTENDANCE AND PRODUCTION AT DESIGNATED SITE.—The attendance of any witness and the production of any document pursuant to a subpoena under paragraph (2) may be required at the place designated in the subpoena from any place in any State (as defined in section 3(a)(3) of the Federal Deposit Insurance Act) or other place subject to the jurisdiction of the United States.

"(B) SERVICE OF SUBPOENA.—Service of a subpoena issued under this subsection may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Board, Comptroller of the Currency, or Federal Deposit Insurance Corporation may by regulation or otherwise provide.

"(C) FEES AND TRAVEL EXPENSES.—Witnesses subpoenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

"(4) CONTUMACY OR REFUSAL.—

"(A) IN GENERAL.—In the case of contumacy of any person issued a subpoena under this subsection or a refusal by such person to comply with such subpoena, the Board, Comptroller of the Currency, or Federal Deposit Insurance Corporation, or any other party to proceedings in connection with which subpoena was issued may invoke the aid of—

"(i) the United States District Court for the District of Columbia, or

"(ii) any district court of the United States within the jurisdiction of which the proceeding is being conducted or the witness resides or carries on business.

"(B) COURT ORDER.—Any court referred to in subparagraph (A) may issue an order requiring compliance with a subpoena issued under this subsection.

"(5) EXPENSES AND FEES.—Any court having jurisdiction of any proceeding instituted under this subsection may allow any party to such proceeding such reasonable expenses and attorneys' fees as the court deems just and proper.

"(6) CRIMINAL PENALTY.—Any person who willfully fails or refuses to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, contracts, agreements, or other records in accordance with any subpoena under this subsection shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both. Each day during which any such failure or refusal continues shall be treated as a separate offense.".

SEC. 210. CLARIFICATION OF MANAGERIAL STANDARDS IN BANK HOLDING COMPANY ACT OF 1956.

Section 3(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(c)) (as amended by section 202(d) of this subtitle) is amended by adding at the end the following new paragraph:

"(5) MANAGERIAL RESOURCES.—Consideration of the managerial resources of a company or bank under paragraph (2) shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or bank.".

SEC. 211. STANDARDS AND FACTORS IN THE HOME OWNERS' LOAN ACT.

Section 10(e) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)) is amended—

(1) in paragraph (1), by inserting after subparagraph (B) the following:

"Consideration of the managerial resources of a company or savings association under subparagraph (B) shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or association.";

(2) in paragraph (2)—

(A) by inserting after the second sentence "Consideration of the managerial resources of a company or savings association shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or association.";

(B) by striking "or" at the end of subparagraph (A);

(C) by striking the period at the end of subparagraph (B) and inserting a comma; and

(D) by inserting after subparagraph (B) the following new subparagraphs:

"(C) if the company fails to provide adequate assurances to the Director that the company will make available to the Director such information on the operations or activities of the company, and any affiliate of the company, as the Director determines to be appropriate to determine and enforce compliance with this Act, or

"(D) in the case of an application involving a foreign bank, if the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank's home country.".

SEC. 212. AUTHORITY OF FEDERAL BANKING AGENCIES TO ENFORCE CONSUMER STATUTES.

(a) AMENDMENTS TO THE HOME MORTGAGE DISCLOSURE ACT.—

(1) MAINTENANCE OF RECORDS AND PUBLIC DISCLOSURE.—Section 304(h) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(h)) is amended—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) the Office of the Comptroller of the Currency for national banks and Federal branches and Federal agencies of foreign banks;"; and

(B) by striking paragraph (3) and inserting the following new paragraph:

"(3) the Federal Deposit Insurance Corporation for banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks, insured State branches of foreign banks, and any other depository institution described in section 303(2)(A) which is not otherwise referred to in this paragraph;".

(2) ENFORCEMENT.—Section 305(b) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2804(b)) is amended—

(A) by striking paragraph (1) and inserting the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), mutual savings banks as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), insured State branches of foreign banks, and any other depository institution not referred to in this paragraph or paragraph (2) or (3) of this subsection, by the Board of Directors of the Federal Deposit Insurance Corporation;"; and

(B) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(b) AMENDMENT TO THE TRUTH IN LENDING ACT.—Section 108(a) of the Truth in Lending Act (15 U.S.C. 1607(a)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(c) AMENDMENT TO THE FAIR CREDIT REPORTING ACT.—Section 621(b) of the Fair Credit Reporting Act (15 U.S.C. 1681s(b)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(d) AMENDMENT TO THE EQUAL CREDIT OPPORTUNITY ACT.—Section 704(a) of the Equal Credit Opportunity Act (15 U.S.C. 1691c(a)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(e) AMENDMENT TO THE FAIR DEBT COLLECTION PRACTICES ACT.—Section 814(b) of the Fair Debt Collection Practices Act (15 U.S.C. 1692l(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(f) AMENDMENT TO THE ELECTRONIC FUND TRANSFER ACT.—Section 917(a) of the Electronic Fund Transfer Act (15 U.S.C. 1693o(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the Board; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;"; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(g) AMENDMENT TO THE FEDERAL TRADE COMMISSION ACT.—

(1) DEFINITIONS.—Section 4 of the Federal Trade Commission Act (15 U.S.C. 44) is amended by adding at the end the following new paragraph:

" 'Banks' means the types of banks and other financial institutions referred to in section 18(f)(2).".

(2) ENFORCEMENT.—Section 18(f) of the Federal Trade Commission Act (15 U.S.C. 57a(f)) is amended—

(A) by striking paragraph (2) and inserting the following:

"(2) ENFORCEMENT.—Compliance with regulations prescribed under this subsection shall be enforced under section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, banks operating under the code of law for the District of Columbia, and Federal branches and Federal agencies of foreign banks, by the divisions of consumer affairs established by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks and banks operating under the code of law for the District of Columbia), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act, by the division of consumer affairs established by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other banks referred to in subparagraph (A) or (B)) and insured State branches of foreign banks, by the division of consumer affairs established by the Board of Directors of the Federal Deposit Insurance Corporation."; and

(B) by adding at the end the following:

"The terms used in this paragraph that are not defined in the Federal Trade Commission Act or otherwise defined in section

3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

(h) AMENDMENT TO THE EXPEDITED FUNDS AVAILABILITY ACT.—Section 610(a) of the Expedited Funds Availability Act (12 U.S.C. 4009(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) section 8 of the Federal Deposit Insurance Act in the case of—

"(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), and offices, branches, and agencies of foreign banks located in the United States (other than Federal branches, Federal agencies, and insured State branches of foreign banks), by the Board of Governors of the Federal Reserve System; and

"(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;"; and

(2) by adding at the end the following:

"The terms used in paragraph (1) that are not defined in this title or otherwise defined in section 3(s) of the Federal Deposit Insurance Act (12 U.S.C. 1813(s)) shall have the meaning given to them in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101).".

SEC. 213. CRIMINAL PENALTY FOR VIOLATING THE INTERNATIONAL BANKING ACT OF 1978.

The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by inserting after section 16 (as added by section 208 of this subtitle) the following new section:

"SEC. 17. CRIMINAL PENALTY. 12 USC 3111.

"Whoever, with the intent to deceive, to gain financially, or to cause financial gain or loss to any person, knowingly violates any provision of this Act or any regulation or order issued by the appropriate Federal banking agency under this Act shall be imprisoned not more than 5 years or fined not more than $1,000,000 for each day during which a violation continues, or both.".

SEC. 214. MISCELLANEOUS AMENDMENTS TO THE INTERNATIONAL BANKING ACT OF 1978.

(a) SECTION 6.—Section 6 of the International Banking Act of 1978 (12 U.S.C. 3104) is amended—

(1) by redesignating subsection (b) as subsection (b)(1);

(2) by designating the last undesignated paragraph as paragraph (2); and

(3) by adding at the end the following new subsection:

"(c) RETAIL DEPOSIT-TAKING BY FOREIGN BANKS.—

"(1) IN GENERAL.—After the date of enactment of this subsection, notwithstanding any other provision of this Act or any provision of the Federal Deposit Insurance Act, in order to

accept or maintain deposit accounts having balances of less than $100,000, a foreign bank shall—

"(A) establish 1 or more banking subsidiaries in the United States for that purpose; and

"(B) obtain Federal deposit insurance for any such subsidiary in accordance with the Federal Deposit Insurance Act.

"(2) EXCEPTION.—Deposit accounts with balances of less than $100,000 may be accepted or maintained in a branch of a foreign bank only if such branch was an insured branch on the date of the enactment of this subsection.".

(b) SECTION 7.—Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by adding at the end the following new subsection:

Reports.

"(j) STUDY ON EQUIVALENCE OF FOREIGN BANK CAPITAL.—Not later than 180 days after enactment of this subsection, the Board and the Secretary of the Treasury shall jointly submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report—

"(1) analyzing the capital standards contained in the framework for measurement of capital adequacy established by the Supervisory committee of the Bank for International Settlements, foreign regulatory capital standards that apply to foreign banks conducting banking operations in the United States, and the relationship of the Basle and foreign standards to risk-based capital and leverage requirements for United States banks; and

"(2) establishing guidelines for the adjustments to be used by the Board in converting data on the capital of such foreign banks to the equivalent risk-based capital and leverage requirements for United States banks for purposes of determining whether a foreign bank's capital level is equivalent to that imposed on United States banks for purposes of determinations under section 7 of the International Banking Act of 1978 and sections 3 and 4 of the Bank Holding Company Act of 1956.

An update shall be prepared annually explaining any changes in the analysis under paragraph (1) and resulting changes in the guidelines pursuant to paragraph (2).

12 USC 3102 note.

SEC. 215. STUDY AND REPORT ON SUBSIDIARY REQUIREMENTS FOR FOREIGN BANKS.

(a) IN GENERAL.—The Secretary of the Treasury (hereafter referred to as the "Secretary"), jointly with the Board of Governors of the Federal Reserve System and in consultation with the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Attorney General, shall conduct a study of whether foreign banks should be required to conduct banking operations in the United States through subsidiaries rather than branches. In conducting the study, the Secretary shall take into account—

(1) differences in accounting and regulatory practices abroad and the difficulty of assuring that the foreign bank meets United States capital and management standards and is adequately supervised;

(2) implications for the deposit insurance system;

(3) competitive equity considerations;

(4) national treatment of foreign financial institutions;

(5) the need to prohibit money laundering and illegal payments;

(6) safety and soundness considerations;

(7) implications for international negotiations for liberalized trade in financial services;

(8) the tax liability of foreign banks;

(9) whether the establishment of subsidiaries by foreign banks to operate in the United States should be required only if United States Banks are authorized to engage in securities activities and interstate banking and branching; and

(10) differences in treatment of United States creditors under the bankruptcy and receivership laws.

(b) REPORT REQUIRED.—Not later than 1 year after the date of enactment of this Act, the Secretary shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report on the results of the study under subsection (a). Any additional or dissenting views of participating agencies shall be included in the report.

Subtitle B—Customer and Consumer Provisions

SEC. 221. STUDY ON REGULATORY BURDEN.

12 USC 3305 note.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Federal Financial Institutions Examination Council, in consultation with individuals representing insured depository institutions, consumers, community groups, and other interested parties, shall—

(1) review the policies and procedures, and recordkeeping and documentation requirements used to monitor and enforce compliance with—

(A) all laws under the jurisdiction of the Federal banking agencies; and

(B) all laws affecting insured depository institutions under the jurisdiction of the Secretary of the Treasury;

(2) determine whether such policies, procedures, and requirements impose unnecessary burdens on insured depository institutions; and

(3) identify any revisions of such policies, procedures, and requirements that could reduce unnecessary burdens on insured depository institutions without in any respect—

(A) diminishing either compliance with or enforcement of consumer laws in any respect; or

(B) endangering the safety and soundness of insured depository institutions.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Federal Financial Institutions Examination Council shall submit to the Congress a report describing the revisions identified under subsection (a)(3).

(c) DEFINITIONS.—For purposes of this section, the terms "insured depository institution" and "Federal banking agency" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 222. DISCUSSION OF LENDING DATA.

(a) PUBLIC SECTIONS OF COMMUNITY REINVESTMENT ACT REPORTS.—Section 807(b)(1)(B) of the Community Reinvestment Act of 1977 (12 U.S.C. 2906(b)(1)(B)) is amended by inserting "and data" after "facts".

(b) OTHER COMMUNITY REINVESTMENT ACT AMENDMENTS.—Section 807 of the Community Reinvestment Act of 1977 (12 U.S.C. 2906) is amended—

(1) in subsection (a)(1), by striking "depository institutions regulatory agency" and inserting "financial supervisory agency";

(2) in subsection (b)(1)(A)—

(A) by striking "depository institutions regulatory agency's" and inserting "financial supervisory agency's"; and

(B) by striking "depository institutions regulatory agencies" and inserting "financial supervisory agencies"; and

(3) in subsection (c), by striking "depository institutions regulatory agency" each place such term appears and inserting "financial supervisory agency".

SEC. 223. ENFORCEMENT OF EQUAL CREDIT OPPORTUNITY ACT.

(a) PATTERN OR PRACTICE.—Section 706(g) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(g)) is amended by adding at the end the following new sentence: "Each agency referred to in paragraphs (1), (2), and (3) of section 704(a) shall refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has engaged in a pattern or practice of discouraging or denying applications for credit in violation of section 701(a). Each such agency may refer the matter to the Attorney General whenever the agency has reason to believe that 1 or more creditors has violated section 701(a).".

(b) DAMAGES.—Section 706(h) of the Equal Credit Opportunity Act (15 U.S.C. 1691e(h)) is amended by inserting "actual and punitive damages and" after "including".

(c) NOTICE TO HUD.—Section 706 of the Equal Credit Opportunity Act (15 U.S.C. 1691e) is amended by adding at the end the following new subsection:

"(k) NOTICE TO HUD OF VIOLATIONS.—Whenever an agency referred to in paragraph (1), (2), or (3) of section 704(a)—

"(1) has reason to believe, as a result of receiving a consumer complaint, conducting a consumer compliance examination, or otherwise, that a violation of this title has occurred;

"(2) has reason to believe that the alleged violation would be a violation of the Fair Housing Act; and

"(3) does not refer the matter to the Attorney General pursuant to subsection (g),

the agency shall notify the Secretary of Housing and Urban Development of the violation, and shall notify the applicant that the Secretary of Housing and Urban Development has been notified of the alleged violation and that remedies for the violation may be available under the Fair Housing Act.".

(d) APPRAISALS.—Section 701 of the Equal Credit Opportunity Act (15 U.S.C. 1691) is amended by adding at the end the following:

"(e) Each creditor shall promptly furnish an applicant, upon written request by the applicant made within a reasonable period of time of the application, a copy of the appraisal report used in connection with the applicant's application for a loan that is or

would have been secured by a lien on residential real property. The creditor may require the applicant to reimburse the creditor for the cost of the appraisal.".

SEC. 224. HOME MORTGAGE DISCLOSURE ACT.

(a) IN GENERAL.—Section 309 of the Home Mortgage Disclosure Act (12 U.S.C. 2808) is amended—

(1) by striking "depository" before "institution";

(2) by inserting "specified in section 303(2)(A)" after "institution"; and

(3) by adding at the end the following: "The Board, in consultation with the Secretary, may exempt institutions described in section 303(2)(B) that are comparable within their respective industries to institutions that are exempt under the preceding sentence.".

(b) EFFECTIVE DATE.—This section shall become effective on January 1, 1992. 12 USC 2808 note.

SEC. 225. NOTICE OF SAFEGUARD EXCEPTION.

Section 604 of the Expedited Funds Availability Act (12 U.S.C. 4003) is amended—

(1) in subsection (b), by inserting "(a)(2)," after "subsection";

(2) in subsection (c)(1), by striking "(F)" after "subsections (a)(2)";

(3) in subsection (d), by inserting "(a)(2)," after "subsections";

(4) in subsection (f)(1)(A)(i), by striking "day" and inserting "time period within which"; and

(5) in subsection (f), by adding at the end of paragraph (2) the following:

"(D) In the case of a deposit to which subsection (b)(1) or (b)(2) applies, the depository institution may, for nonconsumer accounts and other classes of accounts, as defined by the Board, that generally have a large number of such deposits, provide notice at or before the time it first determines that the subsection applies.

"(E) In the case of a deposit to which subsection (b)(3) applies, the depository institution may, subject to regulations of the Board, provide notice at the beginning of each time period it determines that the subsection applies. In addition to the requirements contained in paragraph (1)(A), the notice shall specify the time period for which the exception will apply.".

SEC. 226. DELEGATED PROCESSING.

Section 328(a) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1713 note) is amended in the first sentence by inserting before the period "or other individuals and entities expressly approved by the Department of Housing and Urban Development".

SEC. 227. DEPOSITS AT NONPROPRIETARY AUTOMATED TELLER MACHINES.

(a) IN GENERAL.—Section 603(e) of the Expedited Funds Availability Act (12 U.S.C. 4002(e)) is amended by striking paragraphs (1)(C) and (2).

(b) CONFORMING AMENDMENTS.—The Expedited Funds Availability Act (12 U.S.C. 4001 et seq.) is amended—

(1) in section 603(e) (12 U.S.C. 4002(e))—

(A) by striking the heading for paragraph (1) and inserting the following:

"(1) NONPROPRIETARY ATM.—"; and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(2) in section 604(a)(2) (12 U.S.C. 4003(a)(2)) by striking "and (2)".

SEC. 228. NOTICE OF BRANCH CLOSURE.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 38 (as added by section 131 of this Act) the following new section:

12 USC 1831p.

"SEC. 39. NOTICE OF BRANCH CLOSURE.

"(a) NOTICE TO APPROPRIATE FEDERAL BANKING AGENCY.—

"(1) IN GENERAL.—An insured depository institution which proposes to close any branch shall submit a notice of the proposed closing to the appropriate Federal banking agency not later than the first day of the 90-day period ending on the date proposed for the closing.

"(2) CONTENTS OF NOTICE.—A notice under paragraph (1) shall include—

"(A) a detailed statement of the reasons for the decision to close the branch; and

"(B) statistical or other information in support of such reasons.

"(b) NOTICE TO CUSTOMERS.—

"(1) IN GENERAL.—An insured depository institution which proposes to close a branch shall provide notice of the proposed closing to its customers.

"(2) CONTENTS OF NOTICE.—Notice under paragraph (1) shall consist of—

"(A) posting of a notice in a conspicuous manner on the premises of the branch proposed to be closed during not less than the 30-day period ending on the date proposed for that closing; and

"(B) inclusion of a notice in—

"(i) at least one of any regular account statements mailed to customers of the branch proposed to be closed, or

"(ii) in a separate mailing,

by not later than the beginning of the 90-day period ending on the date proposed for that closing.

"(c) ADOPTION OF POLICIES.—Each insured depository institution shall adopt policies for closings of branches of the institution.".

Bank Enterprise Act of 1991.

Subtitle C—Bank Enterprise Act

12 USC 1811 note.

SEC. 231. SHORT TITLE.

This subtitle may be cited as the "Bank Enterprise Act of 1991".

12 USC 1834.

SEC. 232. REDUCED ASSESSMENT RATE FOR DEPOSITS ATTRIBUTABLE TO LIFELINE ACCOUNTS.

(a) QUALIFICATION OF LIFELINE ACCOUNTS BY FEDERAL RESERVE BOARD.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation shall establish minimum requirements for accounts providing basic transaction services for consumers at insured depository institutions in order for such accounts to qualify as lifeline accounts for purposes of this section and section 7(b)(10) of the Federal Deposit Insurance Act.

(2) FACTORS TO BE CONSIDERED.—In determining the minimum requirements under paragraph (1) for lifeline accounts at insured depository institutions, the Board and the Corporation shall consider the following factors:

(A) Whether the account is available to provide basic transaction services for individuals who maintain a balance of less than $1,000 or such other amount which the Board may determine to be appropriate.

(B) Whether any service charges or fees to which the account is subject, if any, for routine transactions do not exceed a minimal amount.

(C) Whether any minimum balance or minimum opening requirement to which the account is subject, if any, is not more than a minimal amount.

(D) Whether checks, negotiable orders of withdrawal, or similar instruments for making payments or other transfers to third parties may be drawn on the account.

(E) Whether the depositor is permitted to make more than a minimal number of withdrawals from the account each month by any means described in subparagraph (D) or any other means.

(F) Whether a monthly statement itemizing all transactions for the monthly reporting period is made available to the depositor with respect to such account or a passbook is provided in which all transactions with respect to such account are recorded.

(G) Whether depositors are permitted access to tellers at the institution for conducting transactions with respect to such account.

(H) Whether other account relationships with the institution are required in order to open any such account.

(I) Whether individuals are required to meet any prerequisite which discriminates against low-income individuals in order to open such account.

(J) Such other factors as the Board may determine to be appropriate.

(3) DEFINITIONS.—For purposes of this subsection—

(A) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(B) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

(C) LIFELINE ACCOUNT.—The term "lifeline account" means any transaction account (as defined in section 19(b)(1)(C) of the Federal Reserve Act) which meets the minimum requirements established by the Board under this subsection.

(b) REDUCED ASSESSMENT RATES FOR LIFELINE ACCOUNT DEPOSITS.—

(1) REPORTING LIFELINE ACCOUNT DEPOSITS.—Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) (as amended by sections 122, 123, and 141 of this Act) is amended by redesignating paragraphs (6), (7), (8), (9), and (10) as paragraphs (7), (8), (9), (10), and (11), respectively, and by inserting after paragraph (5) the following new paragraph:

"(6) LIFELINE ACCOUNT DEPOSITS.—In the reports of condition required to be reported under this subsection, the deposits in lifeline accounts (as defined in section 232(a)(3)(C) of the Bank Enterprise Act of 1991) shall be reported separately.".

(2) ASSESSMENT RATES APPLICABLE TO LIFELINE DEPOSITS.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by redesignating paragraph (10) (as so redesignated by section 103(b) of this Act) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

"(10) ASSESSMENT RATE FOR LIFELINE ACCOUNT DEPOSITS.—Notwithstanding any other provision of this subsection, that portion of the average assessment base of any insured depository institution which is attributable to deposits in lifeline accounts (as reported in the institution's reports of condition pursuant to subsection (a)(6)) shall be subject to assessment at the assessment rate of ½ the maximum rate.".

(3) ASSESSMENT PROCEDURE.—Section 7(b)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)) is amended—

(A) by striking subclause (II) of clause (i) and inserting the following new subclause:

"(II) such Bank Insurance Fund member's average assessment base for the immediately preceding semiannual period (minus any amount taken into account under clause (iii) with respect to lifeline account deposits); and"; and

(B) by striking subclause (II) of clause (ii) and inserting the following new subclause:

"(II) such Savings Association Insurance Fund member's average assessment base for the immediately preceding semiannual period (minus any amount taken into account under clause (iii) with respect to lifeline account deposits); and"; and

(C) by adding at the end the following new clause:

"(iii) the semiannual assessment due from any Bank Insurance Fund member or Savings Association Insurance Fund member with respect to lifeline account deposits for any semiannual assessment period shall be the product of—

"(I) ½ the assessment rate applicable with respect to such deposits pursuant to paragraph (10) during that semiannual assessment period; and

"(II) the portion of such member's average assessment base for the immediately preceding semiannual period which is attributable to deposits in lifeline accounts (as reported in the institution's reports of condition pursuant to subsection (a)(6)).".

(c) AVAILABILITY OF FUNDS.—The provisions of this section shall not take effect until appropriations are specifically provided in advance. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

Appropriation authorization.

SEC. 233. ASSESSMENT CREDITS FOR QUALIFYING ACTIVITIES RELATING TO DISTRESSED COMMUNITIES. 12 USC 1834a.

(a) DETERMINATION OF CREDITS FOR INCREASES IN COMMUNITY ENTERPRISE ACTIVITIES.—

(1) IN GENERAL.—The Community Enterprise Assessment Credit Board established under subsection (d) shall issue guidelines for insured depository institutions eligible under this subsection for any community enterprise assessment credit with respect to any semiannual period. Such guidelines shall—

(A) designate the eligibility requirements for any institution meeting applicable capital standards to receive an assessment credit under section 7(d)(4) of the Federal Deposit Insurance Act; and

(B) determine the community enterprise assessment credit available to any eligible institution under paragraph (3).

(2) QUALIFYING ACTIVITIES.—An insured depository institution shall be eligible for any community enterprise assessment credit for any semiannual period for—

(A) any increase during such period in the amount of new originations of qualified loans and other financial assistance provided for low- and moderate-income persons in distressed communities, or enterprises integrally involved with such neighborhoods, which the Board determines are qualified to be taken into account for purposes of this subsection; and

(B) any increase during such period in the amount of deposits accepted from persons domiciled in the distressed community, at any office of the institution (including any branch) located in any qualified distressed community, and any increase during such period in the amount of new originations of loans and other financial assistance made within that community, except that in no case shall the credit for increased deposits at any institution or branch exceed the credit for increased loan and other financial assistance by the bank or branch in the distressed community.

(3) AMOUNT OF ASSESSMENT CREDIT.—The amount of any community enterprise assessment credit available under section 7(d)(4) for any insured depository institution, or a qualified portion thereof, for any semiannual period shall be the amount which is equal to 5 percent, in the case of an institution which does not meet the community development organization requirements under section 235, and 15 percent, in the case of an institution, or a qualified portion thereof, which meets such requirements (or any percentage designated under paragraph (5)) of the sum of—

(A) the amounts of assets described in paragraph (2)(A); and

(B) the amounts of deposits, loans, and other extensions of credit described in paragraph (2)(B).

(4) DETERMINATION OF QUALIFIED LOANS AND OTHER FINANCIAL ASSISTANCE.—Except as provided in paragraph (6), the types of loans and other financial assistance which the Board may determine to be qualified to be taken into account under para-

graph (2)(A) for purposes of the community enterprise assessment credit, may include the following:

(A) Loans insured or guaranteed by the Secretary of Housing and Urban Development, the Secretary of the Department of Veterans Affairs, the Administrator of the Small Business Administration, and the Secretary of Agriculture.

(B) Loans or financing provided in connection with activities assisted by the Administrator of the Small Business Administration or any small business investment company and investments in small business investment companies.

(C) Loans or financing provided in connection with any neighborhood housing service program assisted under the Neighborhood Reinvestment Corporation Act.

(D) Loans or financing provided in connection with any activities assisted under the community development block grant program under title I of the Housing and Community Development Act of 1974.

(E) Loans or financing provided in connection with activities assisted under title II of the Cranston-Gonzalez National Affordable Housing Act.

(F) Loans or financing provided in connection with a homeownership program assisted under title III of the United States Housing Act of 1937 or subtitle B or C of title IV of the Cranston-Gonzalez National Affordable Housing Act.

(G) Financial assistance provided through community development corporations.

(H) Federal and State programs providing interest rate assistance for homeowners.

(I) Extensions of credit to nonprofit developers or purchasers of low-income housing and small business developments.

(J) In the case of members of any Federal home loan bank, participation in the community investment fund program established by the Federal home loan banks.

(K) Conventional mortgages targeted to low- or moderate-income persons.

(5) ADJUSTMENT OF PERCENTAGE.—The Board may increase or decrease the percentage referred to in paragraph (3) for determining the amount of any community enterprise assessment credit pursuant to such paragraph, except that the percentage established for insured depository institutions which meet the community development organization requirements under section 235 shall not be less than 3 times the amount of the percentage applicable for insured depository institutions which do not meet such requirements.

(6) CERTAIN INVESTMENTS NOT ELIGIBLE TO BE TAKEN INTO ACCOUNT.—Investments by any insured depository institution in loans and securities that are not the result of originations by the institution shall not be taken into account for purposes of determining the amount of any credit pursuant to this subsection.

(b) QUALIFIED DISTRESSED COMMUNITY DEFINED.—

(1) IN GENERAL.—For purposes of this section, the term "qualified distressed community" means any neighborhood or community which—

(A) meets the minimum area requirements under paragraph (3) and the eligibility requirements of paragraph (4); and

(B) is designated as a distressed community by any insured depository institution in accordance with paragraph (2) and such designation is not disapproved under such paragraph.

(2) DESIGNATION REQUIREMENTS.—

(A) NOTICE OF DESIGNATION.—

(i) NOTICE TO AGENCY.—Upon designating an area as a qualified distressed community, an insured depository institution shall notify the appropriate Federal banking agency of the designation.

(ii) PUBLIC NOTICE.—Upon the effective date of any designation of an area as a qualified distressed community, an insured depository institution shall publish a notice of such designation in major newspapers and other community publications which serve such area.

(B) AGENCY DUTIES RELATING TO DESIGNATIONS.—

(i) PROVIDING INFORMATION.—At the request of any insured depository institution, the appropriate Federal banking agency shall provide to the institution appropriate information to assist the institution to identify and designate a qualified distressed community.

(ii) PERIOD FOR DISAPPROVAL.—Any notice received by the appropriate Federal banking agency from any insured depository institution under subparagraph (A)(i) shall take effect at the end of the 90-day period beginning on the date such notice is received unless written notice of the approval or disapproval of the application by the agency is provided to the institution before the end of such period. Effective date.

(3) MINIMUM AREA REQUIREMENTS.—For purposes of this subsection, an area meets the requirements of this paragraph if—

(A) the area is within the jurisdiction of 1 unit of general local government;

(B) the boundary of the area is contiguous; and

(C) the area—

(i) has a population, as determined by the most recent census data available, of not less than—

(I) 4,000, if any portion of such area is located within a metropolitan statistical area (as designated by the Director of the Office of Management and Budget) with a population of 50,000 or more; or

(II) 1,000, in any other case; or

(ii) is entirely within an Indian reservation (as determined by the Secretary of the Interior).

(4) ELIGIBILITY REQUIREMENTS.—For purposes of this subsection, an area meets the requirements of this paragraph if at least 2 of the following criteria are met:

(A) INCOME.—At least 70 percent of the families and unrelated individuals residing in the area have incomes of less than 80 percent of the median income of the area.

(B) POVERTY.—At least 20 percent of the residents residing in the area have incomes which are less than the

national poverty level (as determined pursuant to criteria established by the Director of the Office of Management and Budget).

(C) UNEMPLOYMENT.—The unemployment rate for the area is one and one-half times greater than the national average (as determined by the Bureau of Labor Statistic's most recent figures).

(c) ASSESSMENT CREDIT PROVIDED.—

(1) IN GENERAL.—Section 7(d) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)) is amended—

(A) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (3) the following new paragraphs:

"(4) COMMUNITY ENTERPRISE ASSESSMENT CREDITS.—Notwithstanding paragraphs (2)(A) and (3)(A) and in addition to any assessment credit authorized under paragraph (2)(B) or (3)(B), the Corporation shall allow an assessment credit for any semiannual assessment period to any Bank Insurance Fund member or Savings Association Insurance Fund member satisfying the requirements of the Community Enterprise Assessment Credit Board under section 233(a)(1) of the Bank Enterprise Act of 1991 in the amount determined by such Board through regulation for such period pursuant to such section.

"(5) MAXIMUM AMOUNT OF CREDIT.—The total amount of assessment credits allowed under this subsection (including community enterprise assessment credits pursuant to paragraph (4)) for any insured depository institution for any semiannual period shall not exceed the amount which is equal to 20 percent, in the case of an institution which does not meet the community development organization requirements under section 235 of the Bank Enterprise Act of 1991, and 50 percent, in the case of an institution which meets such requirements, of the assessment imposed on such institution for the semiannual period.".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 7(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)) is amended by inserting "(other than credits allowed pursuant to paragraph (4))" after "amount to be credited".

(B) Subparagraph (B) of section 7(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)) is amended by inserting "(taking into account any assessment credit allowed pursuant to paragraph (4))" after "should be reduced".

(d) COMMUNITY ENTERPRISE ASSESSMENT CREDIT BOARD.—

(1) ESTABLISHMENT.—There is hereby established the "Community Enterprise Assessment Credit Board".

(2) NUMBER AND APPOINTMENT.—The Board shall be composed of 5 members as follows:

(A) The Secretary of the Treasury or a designee of the Secretary.

(B) The Secretary of Housing and Urban Development or a designee of the Secretary.

(C) The Chairperson of the Federal Deposit Insurance Corporation or a designee of the Chairperson.

(D) 2 individuals appointed by the President from among individuals who represent community organizations. President.

(3) TERMS.—

(A) APPOINTED MEMBERS.—Each appointed member shall be appointed for a term of 5 years.

(B) INTERIM APPOINTMENT.—Any member appointed to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed only for the remainder of such term.

(C) CONTINUATION OF SERVICE.—Each appointed member may continue to serve after the expiration of the period to which such member was appointed until a successor has been appointed.

(4) CHAIRPERSON.—The Secretary of the Treasury shall serve as the Chairperson of the Board.

(5) NO PAY.—No members of the Commission may receive any pay for service on the Board.

(6) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(7) MEETINGS.—The Board shall meet at the call of the Chairperson or a majority of the Board's members.

(e) DUTIES OF THE BOARD.—

(1) PROCEDURE FOR DETERMINING COMMUNITY ENTERPRISE ASSESSMENT CREDITS.—The Board shall establish procedures for accepting and considering applications by insured depository institutions under subsection (a)(1) for community enterprise assessment credits and making determinations with respect to such applications.

(2) NOTICE TO FDIC.—The Board shall notify the applicant and the Federal Deposit Insurance Corporation of any determination of the Board with respect to any application referred to in paragraph (1) in sufficient time for the Corporation to include the amount of such credit in the computation made for purposes of the notification required under section 7(d)(1)(B).

(f) AVAILABILITY OF FUNDS.—The provisions of this section shall not take effect until appropriations are specifically provided in advance. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Appropriation authorization.

(g) DEFINITIONS.—For purposes of this section—

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the meaning given to such term in section 3(q) of the Federal Deposit Insurance Act.

(2) BOARD.—The term "Board" means the Community Enterprise Assessment Credit Board established under the amendment made by subsection (d).

(3) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act.

SEC. 234. COMMUNITY DEVELOPMENT ORGANIZATIONS. 12 USC 1834b.

(a) COMMUNITY DEVELOPMENT ORGANIZATIONS DESCRIBED.—For purposes of this subtitle, any insured depository institution, or a qualified portion thereof, shall be treated as meeting the community development organization requirements of this section if—

(1) the institution—

(A) is a community development bank, or controls any community development bank, which meets the requirements of subsection (b);

(B) controls any community development corporation, or maintains any community development unit within the institution, which meets the requirements of subsection (c);

(C) invests in accounts in any community development credit union designated as a low-income credit union, subject to restrictions established for such credit unions by the National Credit Union Administration Board; or

(D) invests in a community development organization jointly controlled by two or more institutions;

(2) except in the case of an institution which is a community development bank, the amount of the capital invested, in the form of debt or equity, by the institution in the community development organization referred to in paragraph (1) (or, in the case of any community development unit, the amount which the institution irrevocably makes available to such unit for the purposes described in paragraph (3)) is not less than the greater of—

(A) ½ of 1 percent of the capital, as defined by generally accepted accounting principles, of the institution; or

(B) the sum of the amounts invested in such community development organization; and

(3) the community development organization provides loans for residential mortgages, home improvement, and community development and other financial services, other than financing for the purchase of automobiles or extension of credit under any open-end credit plan (as defined in section 103(i) of the Truth in Lending Act), to low- and moderate-income persons, nonprofit organizations, and small businesses located in qualified distressed communities in a manner consistent with the intent of this subtitle.

(b) COMMUNITY DEVELOPMENT BANK REQUIREMENTS.—A community development bank meets the requirements of this subsection if—

(1) the community development bank has a 15-member advisory board designated as the "Community Investment Board" and consisting entirely of community leaders who—

(A) shall be appointed initially by the board of directors of the community development bank and thereafter by the Community Investment Board from nominations received from the community; and

(B) are appointed for a single term of 2 years, except that, of the initial members appointed to the Community Investment Board, ⅓ shall be appointed for a term of 8 months, ⅓ shall be appointed for a term of 16 months, and ⅓ shall be appointed for a term of 24 months, as designated by the board of directors of the community development bank at the time of the appointment;

(2) ⅓ of the members of the community development bank's board of directors are appointed from among individuals nominated by the Community Investment Board; and

(3) the bylaws of the community development bank require that the board of directors of the bank meet with the Community Investment Board at least once every 3 months.

(c) COMMUNITY DEVELOPMENT CORPORATION REQUIREMENTS.—Any community development corporation, or community development unit within any insured depository institution meets the requirements of this subsection if the corporation or unit provides the same or greater, as determined by the appropriate Federal banking agency, community participation in the activities of such corporation or unit as would be provided by a Community Investment Board under subsection (b) if such corporation or unit were a community development bank.

(d) ADEQUATE DISPERSAL REQUIREMENT.—The appropriate Federal banking agency may approve the establishment of a community development organization under this subtitle only upon finding that the distressed community is not adequately served by an existing community development organization.

(e) DEFINITIONS.—For purposes of this section—

(1) COMMUNITY DEVELOPMENT BANK.—The term "community development bank" means any depository institution (as defined in section 3(c)(1) of the Federal Deposit Insurance Act).

(2) COMMUNITY DEVELOPMENT ORGANIZATION.—The term "community development organization" means any community development bank, community development corporation, community development unit within any insured depository institution, or community development credit union.

(3) LOW- AND MODERATE-INCOME PERSONS.—The term "low- and moderate-income persons" has the meaning given such term in section 102(a)(20) of the Housing and Community Development Act of 1974.

(4) NONPROFIT ORGANIZATION; SMALL BUSINESS.—The terms "nonprofit organization" and "small business" have the meanings given to such terms by regulations which the appropriate Federal banking agency shall prescribe for purposes of this section.

(5) QUALIFIED DISTRESSED COMMUNITY.—The term "qualified distressed community" has the meaning given to such term in section 233(b).

Subtitle D—FDIC Property Disposition

SEC. 241. FDIC AFFORDABLE HOUSING PROGRAM.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding after section 39 (as added by section 228 of this title) the following new section:

"SEC. 40. FDIC AFFORDABLE HOUSING PROGRAM.

Disadvantaged.
12 USC 1831q.

"(a) PURPOSE.—The purpose of this section is to provide homeownership and rental housing opportunities for very low-income, low-income, and moderate-income families.

"(b) FUNDING AND LIMITATIONS OF PROGRAM.—

"(1) DURATION OF PROGRAM.—The provisions of this section shall be effective, subject to the provisions of paragraph (2), only during the 3-year period beginning upon the commencement of the first fiscal year for which amounts are provided pursuant to paragraph (2)(A).

"(2) ANNUAL FISCAL LIMITATIONS.—

"(A) IN GENERAL.—In each fiscal year during the 3-year period referred to in paragraph (1), the provisions of this section shall apply only—

"(i) to such extent or in such amounts as are provided in appropriations Acts for any losses resulting during the fiscal year from the sale of properties under this section, except that such amounts for losses may not exceed $30,000,000 in any fiscal year; and

"(ii) to the extent that amounts are provided in appropriations Acts pursuant to subparagraph (C) for any other costs relating to the program under this section.

"(B) DEFINITION OF LOSSES.—For purposes of this paragraph, the amount of losses resulting from the sale of properties under this section during any fiscal year shall be the amount equal to the sum of any affordable housing discounts reasonably anticipated to accrue during the fiscal year.

"(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, for each fiscal year during the 3-year period referred to in paragraph (1), such sums as may be necessary for any costs of the program under this section other than losses resulting from the sale of properties under this section.

"(D) OTHER DEFINITIONS.—For purposes of this paragraph:

"(i) AFFORDABLE HOUSING DISCOUNT.—The term 'affordable housing discount' means, with respect to any eligible residential or eligible condominium property transferred under this section by the Corporation, the difference (if any) between the realizable disposition value of the property and the actual sale price of the property under this section.

"(ii) REALIZABLE DISPOSITION VALUE.—The term 'realizable disposition value' means the estimated sale price that the Corporation reasonably would be able to obtain upon the sale of a property by the Corporation under the provisions of this Act, not including this section, and any other applicable laws. Not later than the expiration of the 120-day period beginning upon the commencement of the first fiscal year for which amounts are provided pursuant to paragraph (2)(A), the Corporation shall establish, and publish in the Federal Register, procedures for determining the realizable disposition value of a property transferred under this section, which shall take into consideration such factors as the Corporation considers appropriate, including the actual sale prices of properties disposed of by the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the prices of other properties sold under similar programs, and the appraised value of the property transferred under this section. Until such procedures are established, the Corporation may consider the realizable disposition value of any eligible residential or condominium property to be equal to the appraised value of the property.

Federal Register, publication.

"(3) EXISTING CONTRACTS.—The provisions of this section shall not apply to any eligible residential property or any eligible

condominium property that is subject to an agreement entered into by the Corporation before the commencement of the first fiscal year for which amounts are provided pursuant to paragraph (2)(A) that provides for any other disposition of the property.

"(c) RULES GOVERNING DISPOSITION OF ELIGIBLE SINGLE FAMILY PROPERTIES.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible single family property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, condition, and information relating to the estimated fair market value of the property. Each clearinghouse shall make such information available, upon request, to other public agencies, other nonprofit organizations, and qualifying households. The Corporation shall allow public agencies, nonprofit organizations, and qualifying households reasonable access to eligible single family property for purposes of inspection.

"(2) OFFERS TO SELL TO NONPROFIT ORGANIZATIONS, PUBLIC AGENCIES, AND QUALIFYING HOUSEHOLDS.—During the 180-day period beginning on the date on which the Corporation makes an eligible single family property available for sale, the Corporation shall offer to sell the property to—

"(A) qualifying households (including qualifying households with members who are veterans); or

"(B) public agencies or nonprofit organizations that agree to (i) make the property available for occupancy by and maintain it as affordable for low-income families (including low-income families with members who are veterans) for the remaining useful life of such property, or (ii) make the property available for purchase by any such family who, except as provided in paragraph (4), agrees to occupy the property as a principal residence for at least 12 months and certifies in writing that the family intends to occupy the property for at least 12 months.

The restrictions described in clause (i) of subparagraph (B) shall be contained in the deed or other recorded instrument. If, upon the expiration of such 180-day period, no qualifying household, public agency, or nonprofit organization has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any purchaser. The Corporation shall actively market eligible single family properties for sale to low-income families and to low-income families with members who are veterans.

"(3) RECAPTURE OF PROFITS FROM RESALE.—Except as provided in paragraph (4), if any eligible single family property sold (A) to a qualifying household, or (B) to a low-income family pursuant to paragraph (2)(B)(ii), subsection (j)(3)(A), or subsection (k)(2), is resold by the qualifying household or low-income family during the 1-year period beginning upon initial acquisition by the household or low-income family, the Corporation shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (i) the original sale price for the acquisition of the property by the qualifying household or low-income family, (ii) the costs of any improvements to the property made

after the date of the acquisition, and (iii) any closing costs in connection with the acquisition.

"(4) EXCEPTIONS TO RECAPTURE REQUIREMENT.—

"(A) RELOCATION.—The Corporation may in its discretion waive the applicability (i) to any qualifying household of the requirement under paragraph (3) and the requirements relating to residency of a qualifying household under subsections (p)(12) (B) and (C), and (ii) to any low-income family of the requirement under paragraph (3) and the residency requirements under paragraph (2)(B)(ii). The Corporation may grant any such waiver only for good cause shown, including any necessary relocation of the qualifying household or low-income family.

"(B) OTHER RECAPTURE PROVISIONS.—The requirement under paragraph (3) shall not apply to any eligible single family property for which, upon resale by the qualifying household or low-income family during the 1-year period beginning upon initial acquisition by the household or family, a portion of the sale proceeds or any subsidy provided in connection with the acquisition of the property by the household or family is required to be recaptured or repaid under any other Federal, State, or local law (including section 143(m) of the Internal Revenue Code of 1986) or regulation or under any sale agreement.

"(5) EXCEPTION TO AVOID DISPLACEMENT OF EXISTING RESIDENTS.—Notwithstanding the first sentence of paragraph (2), during the 180-day period following the date on which the Corporation makes an eligible single family property available for sale, the Corporation may sell the property to the household residing in the property, but only if (A) such household was residing in the property at the time notice regarding the property was provided to clearinghouses under paragraph (1), (B) such sale is necessary to avoid the displacement of, and unnecessary hardship to, the resident household, (C) the resident household intends to occupy the property as a principal residence for at least 12 months, and (D) the resident household certifies in writing that the household intends to occupy the property for at least 12 months.

"(d) RULES GOVERNING DISPOSITION OF ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible multifamily housing property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property, including but not limited to location, number of units (identified by number of bedrooms), and information relating to the estimated fair market value of the property. Each clearinghouse shall make such information available, upon request, to qualifying multifamily purchasers. The Corporation shall allow qualifying multifamily purchasers reasonable access to eligible multifamily housing properties for purposes of inspection.

"(2) EXPRESSION OF SERIOUS INTEREST.—Qualifying multifamily purchasers may give written notice of serious interest in a property during a period ending 90 days after the time the Corporation provides notice under paragraph (1). The notice of

serious interest shall be in such form and include such information as the Corporation may prescribe.

"(3) NOTICE OF READINESS FOR SALE.—Upon the expiration of the period referred to in paragraph (2) for a property, the Corporation shall provide written notice to any qualifying multifamily purchaser that has expressed serious interest in the property. Such notice shall specify the minimum terms and conditions for sale of the property.

"(4) OFFERS BY QUALIFYING MULTIFAMILY PURCHASERS.—A qualifying multifamily purchaser receiving notice in accordance with paragraph (3) shall have 45 days (from the date notice is received) to make a bona fide offer to purchase the property. The Corporation shall accept an offer that complies with the terms and conditions established by the Corporation. If, before the expiration of such 45-day period, any offer to purchase a property initially accepted by the Corporation is subsequently rejected or fails (for any reason), the Corporation shall accept another offer to purchase the property made during such period that complies with the terms and conditions established by the Corporation (if such another offer is made). The preceding sentence may not be construed to require a qualifying multifamily purchaser whose offer is accepted during the 45-day period to purchase the property before the expiration of the period.

"(5) EXTENSION OF RESTRICTED OFFER PERIODS.—The Corporation may provide notice to clearinghouses regarding, and offer for sale under the provisions of paragraphs (1) through (4), any eligible multifamily housing property—

"(A) in which no qualifying multifamily purchaser has expressed serious interest during the period referred to in paragraph (2), or

"(B) for which no qualifying multifamily purchaser has made a bona fide offer before the expiration of the period referred to in paragraph (4),

except that the Corporation may, in the discretion of the Corporation, alter the duration of the periods referred to in paragraphs (2) and (4) in offering any property for sale under this paragraph.

"(6) SALE OF MULTIFAMILY PROPERTIES TO OTHER PURCHASERS.—

"(A) TIMING.—If, upon the expiration of the period referred to in paragraph (2), no qualifying multifamily purchaser has expressed serious interest in a property, the Corporation may offer to sell the property, individually or in combination with other properties, to any purchaser.

"(B) LIMITATION ON COMBINATION SALES.—The Corporation may not sell in combination with other properties any property for which a qualifying multifamily purchaser has expressed serious interest in purchasing individually.

"(C) EXPIRATION OF OFFER PERIOD.—If, upon the expiration of the period referred to in paragraph (4), no qualifying multifamily purchaser has made an offer to purchase a property, the Corporation may offer to sell the property, individually or in combination with other properties, to any purchaser.

"(7) LOW-INCOME OCCUPANCY REQUIREMENTS.—

"(A) SINGLE PROPERTY PURCHASES.—With respect to any purchase of a single eligible multifamily housing property

by a qualifying multifamily purchaser under paragraph (4) or (5)—

"(i) not less than 35 percent of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for low-income and very low-income families during the remaining useful life of the property in which the units are located; provided that

"(ii) not less than 20 percent of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the property in which the units are located.

"(B) AGGREGATION REQUIREMENTS FOR MULTIPROPERTY PURCHASES.—With respect to any purchase under paragraph (4) or (5) by a qualifying multifamily purchaser involving more than one eligible multifamily housing property as a part of the same negotiation, with respect to which the purchaser intends to aggregate the low-income occupancy required under this paragraph over the total number of units so purchased—

"(i) not less than 40 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for low-income and very low-income families during the remaining useful life of the building or structure in which the units are located; provided that

"(ii) not less than 20 percent of the aggregate number of all dwelling units purchased shall be made available for occupancy by and maintained as affordable for very low-income families during the remaining useful life of the building or structure in which the units are located; and further provided that

"(iii) not less than 10 percent of the dwelling units in each separate property purchased shall be made available for occupancy by and maintained as affordable for low-income families during the remaining useful life of the property in which the units are located.

The requirements of this paragraph shall be contained in the deed or other recorded instrument.

"(8) EXEMPTIONS.—

"(A) CONTINUED OCCUPANCY OF CURRENT RESIDENTS.—No purchaser of an eligible multifamily property may terminate the occupancy of any person residing in the property on the date of purchase for purposes of meeting low-income occupancy requirement applicable to the property under paragraph (7). The purchaser shall be considered to be in compliance with this subsection if each newly vacant dwelling unit is reserved for low-income occupancy until the low-income occupancy requirement is met.

"(B) FINANCIAL INFEASIBILITY.—The Secretary or the State housing finance agency for the State in which an eligible multifamily housing property is located may temporarily reduce the low-income occupancy requirements under paragraph (7) applicable to the property, if the Secretary or such agency determines that an owner's compliance with such requirements is no longer financially

feasible. The owner of the property shall make a good-faith effort to return low-income occupancy to the level required under paragraph (7), and the Secretary or the State housing finance agency, as appropriate, shall review the reduction annually to determine whether financial infeasibility continues to exist.

"(e) RENT LIMITATIONS.—

"(1) IN GENERAL.—With respect to properties under paragraph (2), rents charged to tenants for units made available for occupancy by very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants for units made available for occupancy by low-income families other than very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(2) APPLICABILITY.—The rent limitations under this subsection shall apply to any eligible single family property sold pursuant to subsection (c)(2)(B)(i) and to any eligible multifamily housing property sold pursuant to subsection (d).

"(f) PREFERENCES FOR SALES.—

"(1) IN GENERAL.—In selling any eligible multifamily housing property or combinations of eligible residential properties, the Corporation shall give preference, among substantially similar offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low-income and low-income families and would retain such affordability for the longest term.

"(2) MULTIPROPERTY PURCHASES.—The Corporation shall give preference, among substantially similar offers made under paragraph (4) or (5) of subsection (d) to purchase more than one eligible multifamily housing property as a part of the same negotiation, to offers made by purchasers who agree to maintain low-income occupancy in each separate property purchased in compliance with the levels required for properties under subsection (d)(7)(A).

"(3) DEFINITION OF SUBSTANTIALLY SIMILAR OFFERS.—For purposes of this subsection, a given offer to purchase eligible multifamily housing property or combinations of such properties shall be considered to be substantially similar to another offer if the purchase price under such given offer is not less than 85 percent of the purchase price under the other offer.

"(g) FINANCING SALES.—

"(1) ASSISTANCE BY CORPORATION.—

"(A) SALE PRICE.—The Corporation shall establish a market value for each eligible multifamily housing property. The Corporation shall sell eligible multifamily housing property at the net realizable market value, except that the Corporation may agree to sell eligible multifamily housing property at a price below the net realizable market value to the extent necessary to facilitate an expedited sale of such property and enable a public agency or nonprofit organization to comply with the low-income occupancy requirements applicable to such property under subsection (d)(7). The Corporation may sell eligible single family prop-

erty or eligible condominium property to qualifying households, nonprofit organizations, and public agencies without regard to any minimum sale price.

"(B) PURCHASE LOAN.—The Corporation may provide a loan at market interest rates to any purchaser of eligible residential property for all or a portion of the purchase price, which loan shall be secured by a first or second mortgage on the property. The Corporation may provide the loan at below market interest rates to the extent necessary to facilitate an expedited sale of eligible residential property and permit (i) a low-income family to purchase an eligible single family property under subsection (c), or (ii) a public agency or nonprofit organization to comply with the low-income occupancy requirements applicable to the purchase of an eligible residential property under subsection (c) or (d). The Corporation shall provide loans under this subparagraph in a form permitting sale or transfer of the loan to a subsequent holder. In providing financing for combinations of eligible multifamily housing properties under this section, the Corporation may hold a participating share, including a subordinate participation.

"(2) ASSISTANCE BY HUD.—The Secretary shall take such action as may be necessary to expedite the processing of applications for assistance under section 202 of the Housing Act of 1959, the United States Housing Act of 1937, title IV of the Stewart B. McKinney Homeless Assistance Act, and the National Housing Act, to enable any organization or individual to purchase eligible residential property.

"(3) ASSISTANCE BY FMHA.—The Secretary of Agriculture shall take such action as may be necessary to expedite the processing of applications for assistance under title V of the Housing Act of 1949 to enable any organization or individual to purchase eligible residential property.

"(4) EXCEPTION TO DISPOSITION RULES.—Notwithstanding the requirements under paragraphs (1), (2), (3), (4), (6), and (8) of subsection (d), the Corporation may provide for the disposition of eligible multifamily housing properties as necessary to facilitate purchase of such properties for use in connection with section 202 of the Housing Act of 1959.

"(5) BULK ACQUISITIONS UNDER HOME INVESTMENT PARTNERSHIPS ACT.—

"(A) PURCHASE PRICE.—In providing for bulk acquisition of eligible single family properties by participating jurisdictions for inclusion in affordable housing activities under title II of the Cranston-Gonzalez National Affordable Housing Act, the Corporation shall agree to an amount to be paid for acquisition of such properties. The acquisition price shall include discounts for bulk purchase and for holding of the property such that the acquisition price for each property shall not exceed the fair market value of the property, as valued individually.

"(B) EXEMPTIONS.—To the extent necessary to facilitate sale of properties under this paragraph, the requirements of subsections (c) and (f) and of paragraph (1) of this subsection shall not apply to such transactions and properties involved in such transactions.

"(C) INVENTORIES.—To facilitate acquisitions by such participating jurisdictions, the Corporation shall provide the participating jurisdictions with inventories of eligible single family properties not less than 4 times each year.

"(h) COORDINATION WITH OTHER PROGRAMS.—

"(1) USE OF SECONDARY MARKET AGENCIES.—In the disposition of eligible residential properties, the Corporation (in consultation with the Secretary) shall explore opportunities to work with secondary market entities to provide housing for low- and moderate-income families.

"(2) CREDIT ENHANCEMENT.—

"(A) IN GENERAL.—With respect to such properties, the Secretary may, consistent with statutory authorities, work through the Federal Housing Administration, the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other secondary market entities to develop risk-sharing structures, mortgage insurance, and other credit enhancements to assist in the provision of property ownership, rental, and cooperative housing opportunities for low- and moderate-income families.

"(B) CERTAIN TAX-EXEMPT BONDS.—The Corporation may provide credit enhancements with respect to tax-exempt bonds issued on behalf of nonprofit organizations pursuant to section 103, and subpart A of part IV of subchapter A of chapter 1, of the Internal Revenue Code of 1986, with respect to the disposition of eligible residential properties for the purposes described in subparagraph (A).

"(3) NATIONAL AFFORDABLE HOUSING ACT.—The Corporation shall coordinate the disposition of eligible residential property under this section with appropriate programs and provisions of, and amendments made by, the Cranston-Gonzalez National Affordable Housing Act, including titles II and IV of such Act.

"(i) EXEMPTION FOR CERTAIN TRANSACTIONS WITH INSURED DEPOSITORY INSTITUTIONS.—The provisions of this section shall not apply with respect to any eligible residential property after the date the Corporation enters into a contract to sell such property to an insured depository institution (as defined in section 3), including any sale in connection with a transfer of all or substantially all of the assets of a closed insured depository institution (including such property) to another insured depository institution.

"(j) TRANSFER OF CERTAIN ELIGIBLE RESIDENTIAL PROPERTIES TO STATE HOUSING AGENCIES FOR DISPOSITION.—Notwithstanding subsections (c), (d), (f), and (g), the Corporation may transfer eligible residential properties to the State housing finance agency or any other State housing agency for the State in which the property is located, or to any local housing agency in whose jurisdiction the property is located. Transfers of eligible residential properties under this subsection may be conducted by direct sale, consignment sale, or any other method the Corporation considers appropriate and shall be subject to the following requirements:

"(1) INDIVIDUAL OR BULK TRANSFER.—The Corporation may transfer such properties individually or in bulk, as agreed to by the Corporation and the State housing finance agency or State or local housing agency.

"(2) ACQUISITION PRICE.—The acquisition price paid by the State housing finance agency or State or local housing agency to

the Corporation for properties transferred under this subsection shall be an amount agreed to by the Corporation and the transferee agency.

"(3) LOW-INCOME USE.—Any State housing finance agency or State or local housing agency acquiring properties under this subsection shall offer to sell or transfer the properties only as follows:

"(A) ELIGIBLE SINGLE FAMILY PROPERTIES.—For eligible single family properties—

"(i) to purchasers described under subparagraphs (A) and (B) of subsection (c)(2);

"(ii) if the purchaser is a purchaser described under subsection (c)(2)(B)(i), subject to the rent limitations under subsection (e)(1);

"(iii) subject to the requirement in the second sentence of subsection (c)(2); and

"(iv) subject to recapture by the Corporation of excess proceeds from resale of the properties under paragraphs (3) and (4) of subsection (c).

"(B) ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—For eligible multifamily housing properties—

"(i) to qualifying multifamily purchasers;

"(ii) subject to the low-income occupancy requirements under subsection (d)(7);

"(iii) subject to the provisions of subsection (d)(8);

"(iv) subject to a preference, among financially acceptable offers, to the offer that would reserve the highest percentage of dwelling units for occupancy or purchase by very low- and low-income families and would retain such affordability for the longest term; and

"(v) subject to the rent limitations under subsection (e)(1).

"(4) AFFORDABILITY.—The State housing finance agency or State or local housing agency shall endeavor to make the properties transferred under this subsection more affordable to low-income families based upon the extent to which the acquisition price of a property under paragraph (2) is less than the market value of the property.

"(k) EXCEPTION FOR SALES TO NONPROFIT ORGANIZATIONS AND PUBLIC AGENCIES.—

"(1) SUSPENSION OF OFFER PERIODS.—With respect to any eligible residential property, the Corporation may (in the discretion of the Corporation) suspend any of the requirements of paragraphs (1) and (2) of subsection (c) and paragraphs (1) through (4) of subsection (d), as applicable, but only to the extent that for the duration of the suspension the Corporation negotiates the sale of the property to a nonprofit organization or public agency. If the property is not sold pursuant to such negotiations, the requirements of any provisions suspended shall apply upon the termination of the suspension. Any time period referred to in such subsections shall toll for the duration of any suspension under this paragraph.

"(2) USE RESTRICTIONS.—

"(A) ELIGIBLE SINGLE FAMILY PROPERTY.—Any eligible single family property sold under this subsection shall be (i) made available for occupancy by and maintained as afford-

able for low-income families for the remaining useful life of the property, or made available for purchase by such families, (ii) subject to the rent limitations under subsection (e)(1), (iii) subject to the requirements relating to residency of a qualifying household under subsection (p)(12) and to residency of a low-income family under subsection (c)(2)(B), and (iv) subject to recapture by the Corporation of excess proceeds from resale of the property under paragraphs (3) and (4) of subsection (c).

"(B) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—Any eligible multifamily housing property sold under this subsection shall comply with the low-income occupancy requirements under subsection (d)(7) and shall be subject to the rent limitations under subsection (e)(1).

"(l) RULES GOVERNING DISPOSITION OF ELIGIBLE CONDOMINIUM PROPERTY.—

"(1) NOTICE TO CLEARINGHOUSES.—Within a reasonable period of time after acquiring title to an eligible condominium property, the Corporation shall provide written notice to clearinghouses. Such notice shall contain basic information about the property. Each clearinghouse shall make such information available, upon request, to purchasers described in subparagraphs (A) through (D) of paragraph (2). The Corporation shall allow such purchasers reasonable access to an eligible condominium property for purposes of inspection.

"(2) OFFERS TO SELL.—For the 180-day period following the date on which the Corporation makes an eligible condominium property available for sale, the Corporation may offer to sell the property, at the discretion of the Corporation, to 1 or more of the following purchasers:

"(A) Qualifying households.

"(B) Nonprofit organizations.

"(C) Public agencies.

"(D) For-profit entities.

"(3) LOW-INCOME OCCUPANCY REQUIREMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any nonprofit organization, public agency, or for-profit entity that purchases an eligible condominium property shall (i) make the property available for occupancy by and maintain it as affordable for low-income families for the remaining useful life of the property, or (ii) make the property available for purchase by any such family who, except as provided in paragraph (5), agrees to occupy the property as a principal residence for at least 12 months and certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described in clause (i) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(B) MULTIPLE-UNIT PURCHASES.—If any nonprofit organization, public agency, or for-profit entity purchases more than 1 eligible condominium property as a part of the same negotiation or purchase, the Corporation may (in the discretion of the Corporation) waive the requirement under subparagraph (A) and provide instead that not less than 35 percent of all eligible condominium properties purchased shall be (i) made available for occupancy by and maintained as affordable for low-income families for the remaining

useful life of the property, or (ii) made available for purchase by any such family who, except as provided in paragraph (5), agrees to occupy the property as a principal residence for at least 12 months and certifies in writing that the family intends to occupy the property for at least 12 months. The restriction described in clause (i) of the preceding sentence shall be contained in the deed or other recorded instrument.

"(C) SALE TO OTHER PURCHASERS.—If, upon the expiration of the 180-day period referred to in paragraph (2), no purchaser described in subparagraphs (A) through (D) of paragraph (2) has made a bona fide offer to purchase the property, the Corporation may offer to sell the property to any other purchaser.

"(4) RECAPTURE OF PROFITS FROM RESALE.—Except as provided in paragraph (5), if any eligible condominium property sold (A) to a qualifying household, or (B) to a low-income family pursuant to paragraph (3)(A)(ii) or (3)(B)(ii), is resold by the qualifying household or low-income family during the 1-year period beginning upon initial acquisition by the household or family, the Corporation shall recapture 75 percent of the amount of any proceeds from the resale that exceed the sum of (i) the original sale price for the acquisition of the property by the qualifying household or low-income family, (ii) the costs of any improvements to the property made after the date of the acquisition, and (iii) any closing costs in connection with the acquisition.

"(5) EXCEPTION TO RECAPTURE REQUIREMENT.—The Corporation (or its successor) may in its discretion waive the applicability to any qualifying household or low-income family of the requirement under paragraph (4) and the requirements relating to residency of a qualifying household or low-income family (under subsection (p)(12) and paragraph (3) of this subsection, respectively). The Corporation may grant any such a waiver only for good cause shown, including any necessary relocation of the qualifying household or low-income family.

"(6) LIMITATIONS ON MULTIPLE UNIT PURCHASES.—The Corporation may not sell or offer to sell as part of the same negotiation or purchase any eligible condominium properties that are not located in the same condominium project (as such term is defined in section 604 of the Housing and Community Development Act of 1980). The preceding sentence may not be construed to require all eligible condominium properties offered or sold as part of the same negotiation or purchase to be located in the same structure.

"(7) RENT LIMITATIONS.—Rents charged to tenants of eligible condominium properties made available for occupancy by very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the median income for the area, as determined by the Secretary, with adjustment for family size. Rents charged to tenants of eligible condominium properties made available for occupancy by low-income families other than very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(m) LIABILITY PROVISIONS.—

"(1) IN GENERAL.—The provisions of this section, or any failure by the Corporation to comply with such provisions, may not be used by any person to attack or defeat any title to property after it is conveyed by the Corporation.

"(2) LOW-INCOME OCCUPANCY.—The low-income occupancy requirements under subsections (c), (d), (j)(3), (k)(2), and (l)(3) shall be judicially enforceable against purchasers of property under this section and their successors in interest by affected very low- and low-income families, State housing finance agencies, and any agency, corporation, or authority of the United States. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

"(3) CLEARINGHOUSES.—A clearinghouse shall not be subject to suit for its failure to comply with the requirements of this section.

"(4) CORPORATION.—The Corporation shall not be liable to any depositor, creditor, or shareholder of any insured depository institution for which the Corporation has been appointed receiver, or any claimant against such an institution, because the disposition of assets of the institution under this section affects the amount of return from the assets.

"(n) AFFORDABLE HOUSING PROGRAM OFFICE.—The Corporation shall establish an Affordable Housing Program Office within the Corporation to carry out the provisions of this section and shall dedicate certain staff of the Corporation to the office. Establishment.

"(o) REPORT.—To the extent applicable, in the annual report submitted by the Secretary to the Congress under section 8 of the Department of Housing and Urban Development Act, the Secretary shall include a detailed description of any activities under this section, including recommendations for any additional authority the Secretary considers necessary to implement the provisions of this section.

"(p) DEFINITIONS.—For purposes of this section:

"(1) ADJUSTED INCOME AND INCOME.—The terms 'adjusted income' and 'income' shall have the meaning given such terms in section 3(b) of the United States Housing Act of 1937.

"(2) CLEARINGHOUSE.—The term 'clearinghouse' means—

"(A) the State housing finance agency for the State in which an eligible residential property or eligible condominium property is located;

"(B) the Office of Community Investment (or other comparable division) within the Federal Housing Finance Board; and

"(C) any national nonprofit organizations (including any nonprofit entity established by the corporation established under title IX of the Housing and Community Development Act of 1968) that the Corporation determines has the capacity to act as a clearinghouse for information.

"(3) CORPORATION.—The term 'Corporation' means the Federal Deposit Insurance Corporation acting in its corporate capacity or its capacity as receiver.

"(4) ELIGIBLE CONDOMINIUM PROPERTY.—The term 'eligible condominium property' means a condominium unit, as such term is defined in section 604 of the Housing and Community Development Act of 1980—

"(A) to which such Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (which may, in the discretion of the Corporation, take into consideration any increase of such amount for high-cost areas).

"(5) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—The term 'eligible multifamily housing property' means a property consisting of more than 4 dwelling units—

"(A) to which the Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (which may, in the discretion of the Corporation, take into consideration any increase of such amount for high-cost areas).

"(6) ELIGIBLE RESIDENTIAL PROPERTY.—The term 'eligible residential property' includes eligible single family properties and eligible multifamily housing properties.

"(7) ELIGIBLE SINGLE FAMILY PROPERTY.—The term 'eligible single family property' means a 1- to 4-family residence (including a manufactured home)—

"(A) to which the Corporation acquires title; and

"(B) that has an appraised value that does not exceed the applicable dollar amount set forth in the first sentence of section 203(b)(2) of the National Housing Act (which may, in the discretion of the Corporation, take into consideration any increase of such amount for high-cost areas).

"(8) LOW-INCOME FAMILIES.—The term 'low-income families' means families and individuals whose incomes do not exceed 80 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.

"(9) NET REALIZABLE MARKET VALUE.—The term 'net realizable market value' means a price below the market value that takes into account (A) any reductions in holding costs resulting from the expedited sale of a property, including foregone real estate taxes, insurance, maintenance costs, security costs, and loss of use of funds, and (B) the avoidance, if applicable, of fees paid to real estate brokers, auctioneers, or other individuals or organizations involved in the sale of property owned by the Corporation.

"(10) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means a private organization (including a limited equity cooperative)—

"(A) no part of the earnings of which inures to the benefit of any member, shareholder, founder, contributor, or individual; and

"(B) that is approved by the Corporation as to financial responsibility.

"(11) PUBLIC AGENCY.—The term 'public agency' means any Federal, State, local, or other governmental entity, and includes any public housing agency.

"(12) QUALIFYING HOUSEHOLD.—The term 'qualifying household' means a household—

"(A) who intends to occupy eligible single family property as a principal residence;

"(B) who agrees to occupy the property as a principal residence for at least 12 months;

"(C) who certifies in writing that the household intends to occupy the property as a principal residence for at least 12 months; and

"(D) whose income does not exceed 115 percent of the median income for the area, as determined by the Secretary, with adjustment for family size.

"(13) QUALIFYING MULTIFAMILY PURCHASER.—The term 'qualifying multifamily purchaser' means—

"(A) a public agency;

"(B) a nonprofit organization; or

"(C) a for-profit entity, which makes a commitment (for itself or any related entity) to comply with the low-income occupancy requirements under subsection (d)(7) for any eligible multifamily housing property for which an offer to purchase is made during or after the periods specified under subsection (d).

"(14) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(15) STATE HOUSING FINANCE AGENCY.—The term 'State housing finance agency' means the public agency, authority, corporation, or other instrumentality of a State that has the authority to provide residential mortgage loan financing throughout the State.

"(16) VERY LOW-INCOME FAMILIES.—The term 'very low-income families' means families and individuals whose incomes do not exceed 50 percent of the median income of the area involved, as determined by the Secretary, with adjustment for family size.".

12 USC 1831q note.

(b) COORDINATION.—The Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall consult and coordinate with each other in carrying out their respective responsibilities under the affordable housing programs under section 42 of the Federal Deposit Insurance Act and section 21A(c) of the Federal Home Loan Bank Act. Such corporations shall develop any procedures, and may enter into any agreements, necessary to provide for the coordinated, efficient, and effective operation of such programs.

(c) CONFORMING AMENDMENTS.—

(1) FEDERAL DEPOSIT INSURANCE ACT.—Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended—

(A) in paragraph (2)(B), in the matter preceding clause (i), by inserting "(subject to the provisions of section 42)" before the comma; and

(B) in paragraph (2)(E), by inserting "(subject to the provisions of section 42)" before the first comma.

(2) HOUSING ACT OF 1959.—Section 202(h)(2) of the Housing Act of 1959 (12 U.S.C. 1701q(h)(2)), as amended by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act, is amended by inserting "or from the Federal Deposit Insurance Corporation under section 42 of the Federal Deposit Insurance Act" after "Federal Home Loan Bank Act".

Subtitle E—Whistleblower Protections

SEC. 251. ADDITIONAL WHISTLEBLOWER PROTECTIONS.

(a) ADDITIONAL COVERAGE ESTABLISHED UNDER FEDERAL DEPOSIT INSURANCE ACT.—

(1) IN GENERAL.—Section 33(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) EMPLOYEES OF DEPOSITORY INSTITUTIONS.—No insured depository institution may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any Federal banking agency or to the Attorney General regarding any possible violation of any law or regulation by the depository institution or any director, officer, or employee of the institution.

"(2) EMPLOYEES OF BANKING AGENCIES.—No Federal banking agency, Federal home loan bank, or Federal Reserve bank may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to any such agency or bank or to the Attorney General regarding any possible violation of any law or regulation by—

"(A) any depository institution or any such bank or agency;

"(B) any director, officer, or employee of any depository institution or any such bank; or

"(C) any officer or employee of the agency which employs such employee.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 33(c) of the Federal Deposit Insurance Act (12 U.S.C. 1831j(c)) is amended by inserting ", Federal home loan bank, Federal Reserve bank, or Federal banking agency" after "depository institution".

(3) DEFINITION.—Section 33 of the Federal Deposit Insurance Act (12 U.S.C. 1831j) is amended by adding at the end the following new subsection:

"(e) FEDERAL BANKING AGENCY DEFINED.—For purposes of subsections (a) and (c), the term 'Federal banking agency' means the Corporation, the Board of Governors of the Federal Reserve System, the Federal Housing Finance Board, the Comptroller of the Currency, and the Director of the Office of Thrift Supervision.".

12 USC 1831j note.

(4) EFFECTIVE DATE.—Paragraph (2) of section 33(a) of the Federal Deposit Insurance Act (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on January 1, 1987, and for purposes of any cause of action arising under such paragraph (as so effective) before the date of the enactment of this Act, the 2-year period referred to in section 33(b) of such Act shall be deemed to begin on such date of enactment.

(b) ADDITIONAL COVERAGE ESTABLISHED UNDER FEDERAL CREDIT UNION ACT.—

(1) IN GENERAL.—Section 213(a) of the Federal Credit Union Act (12 U.S.C. 1790b(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) EMPLOYEES OF CREDIT UNIONS.—No insured credit union may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the

Board or the Attorney General regarding any possible violation of any law or regulation by the credit union or any director, officer, or employee of the credit union.

"(2) EMPLOYEES OF THE ADMINISTRATION.—The Administration may not discharge or otherwise discriminate against any employee (including any employee of the National Credit Union Central Liquidity Facility) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Administration or the Attorney General regarding any possible violation of any law or regulation by—

"(A) any credit union the Administration;

"(B) any director, officer, or employee of any depository institution or any such bank; or

"(C) any officer or employee of the Administration.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 213(c) of the Federal Credit Union Act (12 U.S.C. 1790b(c)) is amended by inserting "or the Administration" after "credit union".

(3) EFFECTIVE DATE.—Paragraph (2) of section 213(a) of the Federal Credit Union Act (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on January 1, 1987, and for purposes of any cause of action arising under such paragraph (as so effective) before the date of the enactment of this Act, the 2-year period referred to in section 213(b) of such Act shall be deemed to begin on such date of enactment. 12 USC 1790b note.

(c) COVERAGE FOR EMPLOYEES OF RTC, OVERSIGHT BOARD, AND RTC CONTRACTORS.—

(1) COVERAGE ESTABLISHED.—Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(q) RTC, OVERSIGHT BOARD, AND RTC CONTRACTOR EMPLOYEE PROTECTION REMEDY.—

"(1) PROHIBITION AGAINST DISCRIMINATION.—The Corporation, the Oversight Board, and any person who is performing, directly or indirectly, any function or service on behalf of the Corporation or the Oversight Board may not discharge or otherwise discriminate against any employee (including any employee of the Federal Deposit Insurance Corporation on assignment to the Corporation under this section or any personnel referred to in subparagraphs (C) and (F) of subsection (a)(5)) with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Corporation, the Oversight Board, the Attorney General, or any appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) regarding any possible violation of any law or regulation by the Corporation, the Oversight Board, or such person or any director, officer, or employee of the Corporation, the Oversight Board, or the person.

"(2) ENFORCEMENT.—Any employee or former employee who believes that such employee has been discharged or discriminated against in violation of paragraph (1) may file a civil action in the appropriate United States district court before the end of

the 2-year period beginning on the date of such discharge or discrimination.

"(3) REMEDIES.—If the district court determines that a violation has occurred, the court may order the Corporation or the person which committed the violation to—

"(A) reinstate the employee to the employee's former position;

"(B) pay compensatory damages; or

"(C) take other appropriate actions to remedy any past discrimination.

"(4) LIMITATION.—The protections of this section shall not apply to any employee who—

"(A) deliberately causes or participates in the alleged violation of law or regulation; or

"(B) knowingly or recklessly provides substantially false information to the Corporation, the Attorney General, or any appropriate Federal banking agency.".

12 USC 1441a note.

(2) EFFECTIVE DATE.—Subsection (q) of section 21A of the Federal Home Loan Bank Act (as added under the amendment made by paragraph (1)) shall be treated as having taken effect on August 9, 1989, and for purposes of any cause of action arising under such subsection (as so effective) before the date of the enactment of this Act, the 2-year period referred to in section 21A(q)(2) of such Act shall be deemed to begin on such date of enactment.

Truth in Savings Act. Consumer protection. Public information. 12 USC 4301 note.

Subtitle F—Truth in Savings

SEC. 261. SHORT TITLE.

This subtitle may be cited as the "Truth in Savings Act".

12 USC 4301.

SEC. 262. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress hereby finds that economic stability would be enhanced, competition between depository institutions would be improved, and the ability of the consumer to make informed decisions regarding deposit accounts, and to verify accounts, would be strengthened if there was uniformity in the disclosure of terms and conditions on which interest is paid and fees are assessed in connection with such accounts.

(b) PURPOSE.—It is the purpose of this subtitle to require the clear and uniform disclosure of—

(1) the rates of interest which are payable on deposit accounts by depository institutions; and

(2) the fees that are assessable against deposit accounts,

so that consumers can make a meaningful comparison between the competing claims of depository institutions with regard to deposit accounts.

12 USC 4302.

SEC. 263. DISCLOSURE OF INTEREST RATES AND TERMS OF ACCOUNTS.

(a) IN GENERAL.—Except as provided in subsection (b), each advertisement, announcement, or solicitation initiated by any depository institution or deposit broker relating to any demand or interest-bearing account offered by an insured depository institution which includes any reference to a specific rate of interest payable on amounts deposited in such account, or to a specific yield or rate of

earnings on amounts so deposited, shall state the following information, to the extent applicable, in a clear and conspicuous manner:

(1) The annual percentage yield.

(2) The period during which such annual percentage yield is in effect.

(3) All minimum account balance and time requirements which must be met in order to earn the advertised yield (and, in the case of accounts for which more than 1 yield is stated, each annual percentage yield and the account minimum balance requirement associated with each such yield shall be in close proximity and have equal prominence).

(4) The minimum amount of the initial deposit which is required to open the account in order to obtain the yield advertised, if such minimum amount is greater than the minimum balance necessary to earn the advertised yield.

(5) A statement that regular fees or other conditions could reduce the yield.

(6) A statement that an interest penalty is required for early withdrawal.

(b) BROADCAST AND ELECTRONIC MEDIA AND OUTDOOR ADVERTISING EXCEPTION.—The Board may, by regulation, exempt advertisements, announcements, or solicitations made by any broadcast or electronic medium or outdoor advertising display not on the premises of the depository institution from any disclosure requirements described in paragraph (4) or (5) of subsection (a) if the Board finds that any such disclosure would be unnecessarily burdensome.

(c) MISLEADING DESCRIPTIONS OF FREE OR NO-COST ACCOUNTS PROHIBITED.—No advertisement, announcement, or solicitation made by any depository institution or deposit broker may refer to or describe an account as a free or no-cost account (or words of similar meaning) if—

(1) in order to avoid fees or service charges for any period—

(A) a minimum balance must be maintained in the account during such period; or

(B) the number of transactions during such period may not exceed a maximum number; or

(2) any regular service or transaction fee is imposed.

(d) MISLEADING OR INACCURATE ADVERTISEMENTS, ETC., PROHIBITED.—No depository institution or deposit broker shall make any advertisement, announcement, or solicitation relating to a deposit account that is inaccurate or misleading or that misrepresents its deposit contracts.

SEC. 264. ACCOUNT SCHEDULE.

12 USC 4303.

Regulations.

(a) IN GENERAL.—Each depository institution shall maintain a schedule of fees, charges, interest rates, and terms and conditions applicable to each class of accounts offered by the depository institution, in accordance with the requirements of this section and regulations which the Board shall prescribe. The Board shall specify, in regulations, which fees, charges, penalties, terms, conditions, and account restrictions must be included in a schedule required under this subsection. A depository institution need not include in such schedule any information not specified in such regulation.

(b) INFORMATION ON FEES AND CHARGES.—The schedule required under subsection (a) with respect to any account shall contain the following information:

(1) A description of all fees, periodic service charges, and penalties which may be charged or assessed against the account (or against the account holder in connection with such account), the amount of any such fees, charge, or penalty (or the method by which such amount will be calculated), and the conditions under which any such amount will be assessed.

(2) All minimum balance requirements that affect fees, charges, and penalties, including a clear description of how each such minimum balance is calculated.

(3) Any minimum amount required with respect to the initial deposit in order to open the account.

(c) INFORMATION ON INTEREST RATES.—The schedule required under subsection (a) with respect to any account shall include the following information:

(1) Any annual percentage yield.

(2) The period during which any such annual percentage yield will be in effect.

(3) Any annual rate of simple interest.

(4) The frequency with which interest will be compounded and credited.

(5) A clear description of the method used to determine the balance on which interest is paid.

(6) The information described in paragraphs (1) through (4) with respect to any period after the end of the period referred to in paragraph (2) (or the method for computing any information described in any such paragraph), if applicable.

(7) Any minimum balance which must be maintained to earn the rates and obtain the yields disclosed pursuant to this subsection and a clear description of how any such minimum balance is calculated.

(8) A clear description of any minimum time requirement which must be met in order to obtain the yields disclosed pursuant to this subsection and any information described in paragraph (1), (2), (3), or (4) that will apply if any time requirement is not met.

(9) A statement, if applicable, that any interest which has accrued but has not been credited to an account at the time of a withdrawal from the account will not be paid by the depository institution or credited to the account by reason of such withdrawal.

(10) Any provision or requirement relating to nonpayment of interest, including any charge or penalty for early withdrawal, and the conditions under which any such charge or penalty may be assessed.

(d) OTHER INFORMATION.—The schedule required under subsection (a) shall include such other disclosures as the Board may determine to be necessary to allow consumers to understand and compare accounts, including frequency of interest rate adjustments, account restrictions, and renewal policies for time accounts.

(e) STYLE AND FORMAT.—Schedules required under subsection (a) shall be written in clear and plain language and be presented in a format designed to allow consumers to readily understand the terms of the accounts offered.

Regulations.
12 USC 4304.

SEC. 265. DISCLOSURE REQUIREMENTS FOR CERTAIN ACCOUNTS.

The Board shall require, in regulations which the Board shall prescribe, such modification in the disclosure requirements under

this Act relating to annual percentage yield as may be necessary to carry out the purposes of this Act in the case of—

(1) accounts with respect to which determination of annual percentage yield is based on an annual rate of interest that is guaranteed for a period of less than 1 year;

(2) variable rate accounts;

(3) accounts which, pursuant to law, do not guarantee payment of a stated rate;

(4) multiple rate accounts; and

(5) accounts with respect to which determination of annual percentage yield is based on an annual rate of interest that is guaranteed for a stated term.

SEC. 266. DISTRIBUTION OF SCHEDULES. 12 USC 4305.

(a) IN GENERAL.—A schedule required under section 264 for an appropriate account shall be—

(1) made available to any person upon request;

(2) provided to any potential customer before an account is opened or a service is rendered; and

(3) provided to the depositor, in the case of any time deposit which is renewable at maturity without notice from the depositor, at least 30 days before the date of maturity.

(b) DISTRIBUTION IN CASE OF CERTAIN INITIAL DEPOSITS.—If—

(1) a depositor is not physically present at an office of a depository institution at the time an initial deposit is accepted with respect to an account established by or for such person; and

(2) the schedule required under section 264(a) has not been furnished previously to such depositor,

the depository institution shall mail the schedule to the depositor at the address shown on the records of the depository institution for such account no later than 10 days after the date of the initial deposit.

(c) DISTRIBUTION OF NOTICE OF CERTAIN CHANGES.—If—

(1) any change is made in any term or condition which is required to be disclosed in the schedule required under section 264(a) with respect to any account; and

(2) the change may reduce the yield or adversely affect any holder of the account,

all account holders who may be affected by such change shall be notified and provided with a description of the change by mail at least 30 days before the change takes effect.

(d) DISTRIBUTION IN CASE OF ACCOUNTS ESTABLISHED BY MORE THAN 1 INDIVIDUAL OR BY A GROUP.—If an account is established by more than 1 individual or for a person other than an individual, any distribution described in this section with respect to such account meets the requirements of this section if the distribution is made to 1 of the individuals who established the account or 1 individual representative of the person on whose behalf such account was established.

(e) NOTICE TO ACCOUNT HOLDERS AS OF THE EFFECTIVE DATE OF REGULATIONS.—For any account for which the depository institution delivers an account statement on a quarterly or more frequent basis, the depository institution shall include on or with any regularly scheduled mailing posted or delivered within 180 days after publication of regulations issued by the Board in final form, a statement that the account holder has the right to request an account schedule

containing the terms, charges, and interest rates of the account, and that the account holder may wish to request such an account schedule.

12 USC 4306.

SEC. 267. PAYMENT OF INTEREST.

(a) CALCULATED ON FULL AMOUNT OF PRINCIPAL.—Interest on an interest-bearing account at any depository institution shall be calculated by such institution on the full amount of principal in the account for each day of the stated calculation period at the rate or rates of interest disclosed pursuant to this Act.

(b) NO PARTICULAR METHOD OF COMPOUNDING INTEREST REQUIRED.—Subsection (a) shall not be construed as prohibiting or requiring the use of any particular method of compounding or crediting of interest.

(c) DATE BY WHICH INTEREST MUST ACCRUE.—Interest on accounts that are subject to this Act shall begin to accrue not later than the business day specified for interest-bearing accounts in section 606 of the Expedited Funds Availability Act, subject to subsections (b) and (c) of such section.

12 USC 4307.

SEC. 268. PERIODIC STATEMENTS.

Each depository institution shall include on or with each periodic statement provided to each account holder at such institution a clear and conspicuous disclosure of the following information with respect to such account:

(1) The annual percentage yield earned.
(2) The amount of interest earned.
(3) The amount of any fees or charges imposed.
(4) The number of days in the reporting period.

12 USC 4308.

SEC. 269. REGULATIONS.

(a) IN GENERAL.—

(1) REGULATIONS REQUIRED.—Before the end of the 9-month period beginning on the date of the enactment of this Act, the Board, after consultation with each agency referred to in section 270(a) and public notice and opportunity for comment, shall prescribe regulations to carry out the purpose and provisions of this Act.

(2) EFFECTIVE DATE OF REGULATIONS.—The regulations prescribed under paragraph (1) shall take effect not later than 6 months after publication in final form.

(3) CONTENTS OF REGULATIONS.—The regulations prescribed under paragraph (1) may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of accounts as, in the judgment of the Board, are necessary or proper to carry out the purposes of this Act, to prevent circumvention or evasion of the requirements of this Act, or to facilitate compliance with the requirements of this Act.

(4) DATE OF APPLICABILITY.—The provisions of this Act shall not apply with respect to any depository institution before the effective date of regulations prescribed by the Board under this subsection (or by the National Credit Union Administration Board under section 12(b), in the case of any depository institution described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act).

(b) MODEL FORMS AND CLAUSES.—

(1) IN GENERAL.—The Board shall publish model forms and clauses for common disclosures to facilitate compliance with this Act. In devising such forms, the Board shall consider the use by depository institutions of data processing or similar automated machines.

(2) USE OF FORMS AND CLAUSES DEEMED IN COMPLIANCE.—Nothing in this Act may be construed to require a depository institution to use any such model form or clause prescribed by the Board under this subsection. A depository institution shall be deemed to be in compliance with the disclosure provisions of this Act if the depository institution—

(A) uses any appropriate model form or clause as published by the Board; or

(B) uses any such model form or clause and changes it by—

(i) deleting any information which is not required by this Act; or

(ii) rearranging the format,

if in making such deletion or rearranging the format, the depository institution does not affect the substance, clarity, or meaningful sequence of the disclosure.

(3) PUBLIC NOTICE AND OPPORTUNITY FOR COMMENT.—Model disclosure forms and clauses shall be adopted by the Board after duly given notice in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

Federal Register, publication.

SEC. 270. ADMINISTRATIVE ENFORCEMENT.

12 USC 4309.

(a) IN GENERAL.—Compliance with the requirements imposed under this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act—

(A) by the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) in the case of insured depository institutions (as defined in section 3(c)(2) of such Act);

(B) by the Federal Deposit Insurance Corporation in the case of depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act which are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and

(C) by the Director of the Office of Thrift Supervision in the case of depository institutions described in clause (v) and or (vi) of section 19(b)(1)(A) of the Federal Reserve Act which are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and

(2) the Federal Credit Union Act, by the National Credit Union Administration Board in the case of depository institutions described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(b) ADDITIONAL ENFORCEMENT POWERS.—

(1) VIOLATION OF THIS ACT TREATED AS VIOLATION OF OTHER ACTS.—For purposes of the exercise by any agency referred to in subsection (a) of such agency's powers under any Act referred to in such subsection, a violation of a requirement imposed under this Act shall be deemed to be a violation of a requirement imposed under that Act.

(2) ENFORCEMENT AUTHORITY UNDER OTHER ACTS.—In addition to the powers of any agency referred to in subsection (a) under any provision of law specifically referred to in such subsection, each such agency may exercise, for purposes of enforcing compliance with any requirement imposed under this Act, any other authority conferred on such agency by law.

(c) REGULATIONS BY AGENCIES OTHER THAN THE BOARD.—The authority of the Board to issue regulations under this Act does not impair the authority of any other agency referred to in subsection (a) to make rules regarding its own procedures in enforcing compliance with the requirements imposed under this Act.

12 USC 4310.

SEC. 271. CIVIL LIABILITY.

(a) CIVIL LIABILITY.—Except as otherwise provided in this section, any depository institution which fails to comply with any requirement imposed under this Act or any regulation prescribed under this Act with respect to any person who is an account holder is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2)(A) in the case of an individual action, such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

(B) in the case of a class action, such amount as the court may allow, except that—

(i) as to each member of the class, no minimum recovery shall be applicable; and

(ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 percent of the net worth of the depository institution involved; and

(3) in the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with a reasonable attorney's fee as determined by the court.

(b) CLASS ACTION AWARDS.—In determining the amount of any award in any class action, the court shall consider, among other relevant factors—

(1) the amount of any actual damages awarded;

(2) the frequency and persistence of failures of compliance;

(3) the resources of the depository institution;

(4) the number of persons adversely affected; and

(5) the extent to which the failure of compliance was intentional.

(c) BONA FIDE ERRORS.—

(1) GENERAL RULE.—A depository institution may not be held liable in any action brought under this section for a violation of this Act if the depository institution demonstrates by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(2) EXAMPLES.—Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors, except that an error of legal judgment with

respect to a depository institution's obligation under this Act is not a bona fide error.

(d) NO LIABILITY FOR OVERPAYMENT.—A depository institution may not be held liable in any action under this section for a violation of this Act if the violation has resulted in—

(1) an interest payment to the account holder in an amount greater than the amount determined under any disclosed rate of interest applicable with respect to such payment; or

(2) a charge to the consumer in an amount less than the amount determined under the disclosed charge or fee schedule applicable with respect to such charge.

(e) JURISDICTION.—Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within 1 year after the date of the occurrence of the violation involved.

(f) RELIANCE ON BOARD RULINGS.—No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any regulation or order, or any interpretation of any regulation or order, of the Board, or in conformity with any interpretation or approval by an official or employee of the Board duly authorized by the Board to issue such interpretation or approval under procedures prescribed by the Board, notwithstanding, the fact that after such act or omission has occurred, such regulation, order, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(g) NOTIFICATION OF AND ADJUSTMENT FOR ERRORS.—A depository institution shall not be liable under this section or section 270 for any failure to comply with any requirement imposed under this Act with respect to any account if—

(1) before—

(A) the end of the 60-day period beginning on the date on which the depository institution discovered the failure to comply;

(B) any action is instituted against the depository institution by the account holder under this section with respect to such failure to comply; and

(C) any written notice of such failure to comply is received by the depository institution from the account holder,

the depository institution notifies the account holder of the failure of such institution to comply with such requirement; and

(2) the depository institution makes such adjustments as may be necessary with respect to such account to ensure that—

(A) the account holder will not be liable for any amount in excess of the amount actually disclosed with respect to any fee or charge;

(B) the account holder will not be liable for any fee or charge imposed under any condition not actually disclosed; and

(C) interest on amounts in such account will accrue at the annual percentage yield, and under the conditions, actually disclosed (and credit will be provided for interest already accrued at a different annual percentage yield and under different conditions than the yield or conditions disclosed).

(h) MULTIPLE INTERESTS IN 1 ACCOUNT.—If more than 1 person holds an interest in any account—

(1) the minimum and maximum amounts of liability under subsection (a)(2)(A) for any failure to comply with the requirements of this Act shall apply with respect to such account; and

(2) the court shall determine the manner in which the amount of any such liability with respect to such account shall be distributed among such persons.

(i) CONTINUING FAILURE TO DISCLOSE.—

(1) CERTAIN CONTINUING FAILURES TREATED AS 1 VIOLATION.—Except as provided in paragraph (2), the continuing failure of any depository institution to disclose any particular term required to be disclosed under this Act with respect to a particular account shall be treated as a single violation for purposes of determining the amount of any liability of such institution under subsection (a) for such failure to disclose.

(2) SUBSEQUENT FAILURE TO DISCLOSE.—The continuing failure of any depository institution to disclose any particular term required to be disclosed under this Act with respect to a particular account after judgment has been rendered in favor of the account holder in connection with a prior failure to disclose such term with respect to such account shall be treated as a subsequent violation for purposes of determining liability under subsection (a).

(3) COORDINATION WITH SECTION 270.—This subsection shall not limit or otherwise affect the enforcement power under section 270 of any agency referred to in subsection (a) of such section.

12 USC 4311.

SEC. 272. CREDIT UNIONS.

(a) IN GENERAL.—No regulation prescribed by the Board under this Act shall apply directly with respect to any depository institution described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(b) REGULATIONS PRESCRIBED BY THE NCUA.—Within 90 days of the effective date of any regulation prescribed by the Board under this Act, the National Credit Union Administration Board shall prescribe a regulation substantially similar to the regulation prescribed by the Board taking into account the unique nature of credit unions and the limitations under which they may pay dividends on member accounts.

12 USC 4312.

SEC. 273. EFFECT ON STATE LAW.

The provisions of this Act do not supersede any provisions of the law of any State relating to the disclosure of yields payable or terms for accounts to the extent such State law requires the disclosure of such yields or terms for accounts, except to the extent that those laws are inconsistent with the provisions of this Act, and then only to the extent of the inconsistency. The Board may determine whether such inconsistencies exist.

12 USC 4313.

SEC. 274. DEFINITIONS.

For the purposes of this Act—

(1) ACCOUNT.—The term "account" means any account offered to 1 or more individuals or an unincorporated nonbusiness association of individuals by a depository institution into which a customer deposits funds, including demand accounts, time accounts, negotiable order of withdrawal accounts, and share draft accounts.

(2) ANNUAL PERCENTAGE YIELD.—The term "annual percentage yield" means the total amount of interest that would be received on a $100 deposit, based on the annual rate of simple interest and the frequency of compounding for a 365-day period, expressed as a percentage calculated by a method which shall be prescribed by the Board in regulations.

(3) ANNUAL RATE OF SIMPLE INTEREST.—The term "annual rate of simple interest"—

(A) means the annualized rate of interest paid with respect to each compounding period, expressed as a percentage; and

(B) may be referred to as the "annual percentage rate".

(4) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(5) DEPOSIT BROKER.—The term "deposit broker"—

(A) has the meaning given to such term in section 29(f)(1) of the Federal Deposit Insurance Act; and

(B) includes any person who solicits any amount from any other person for deposit in an insured depository institution.

(6) DEPOSITORY INSTITUTION.—The term "depository institution" has the meaning given such term in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act.

(7) INTEREST.—The term "interest" includes dividends paid with respect to share draft accounts which are accounts within the meaning of paragraph (3).

(8) MULTIPLE RATE ACCOUNT.—The term "multiple rate account" means any account that has 2 or more annual rates of simple interest which take effect at the same time or in succeeding periods and which are known at the time of disclosure.

TITLE III—REGULATORY IMPROVEMENT

Subtitle A—Activities

SEC. 301. LIMITATIONS ON BROKERED DEPOSITS AND DEPOSIT SOLICITATIONS.

(a) IN GENERAL.—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended—

(1) in subsection (a), by striking "troubled institution" and inserting "insured depository institution that is not well capitalized";

(2) in subsection (c), by inserting "which is adequately capitalized" after "insured depository institution";

(3) in subsection (d), by striking all after "unsound practice;" and inserting the following:

"(2) is necessary to enable the institution to meet the demands of its depositors or pay its obligations in the ordinary course of business; and

"(3) is consistent with the conservator's fiduciary duty to minimize the institution's losses.

Effective 90 days after the date on which the institution was placed in conservatorship, the institution may not accept such deposits.";

Effective date.

(4) by redesignating subsections (e) through (g) as subsections (f) through (h), respectively, and inserting after subsection (d) the following:

"(e) RESTRICTION ON INTEREST RATE PAID.—Any insured depository institution which, under subsection (c) or (d), accepts funds obtained, directly or indirectly, by or through a deposit broker, may not pay a rate of interest on such funds which, at the time that such funds are accepted, significantly exceeds—

"(1) the rate paid on deposits of similar maturity in such institution's normal market area for deposits accepted in the institution's normal market area; or

"(2) the national rate paid on deposits of comparable maturity, as established by the Corporation, for deposits accepted outside the institution's normal market area.";

(5) in subsection (f), as redesignated, by striking "troubled"; and

(6) by striking subsection (h), as redesignated.

(b) NOTIFICATION AND RECORDKEEPING.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 29 the following:

12 USC 1831f-1.

"SEC. 29A. DEPOSIT BROKER NOTIFICATION AND RECORDKEEPING.

"(a) NOTIFICATION.—

"(1) IN GENERAL.—A deposit broker, as defined in section 29(g), shall not solicit or place any deposit with an insured depository institution, unless such deposit broker has provided the Corporation with written notice that it is a deposit broker.

"(2) TERMINATION OF DEPOSIT BROKER STATUS.—When a deposit broker referred to in paragraph (1) ceases to act as a deposit broker it shall provide the Corporation with a written notice that it is no longer acting as a deposit broker.

"(3) FORM AND CONTENT.—The notices required by paragraphs (1) and (2) shall be in such form and contain such information concerning the deposit solicitation and placement activities of a deposit broker as the Corporation may prescribe as necessary or appropriate to carry out the purposes of this subsection.

"(b) RECORDS.—The Corporation may prescribe regulations requiring each deposit broker that has filed a notice under subsection (a)(1) to maintain separate records relating to the total amounts and maturities of the deposits placed by such broker for each insured depository institution during specified time periods. Such regulations shall specify the format in which and the period for which such records shall be preserved, as well as the time period within which the deposit broker shall furnish to the Corporation copies of such records (or designated portions thereof) as the Corporation may request.

"(c) PERIODIC REPORTS.—

"(1) IN GENERAL.—The Corporation may prescribe regulations requiring each deposit broker that has filed a notice under subsection (a)(1) to file with the Corporation separate quarterly reports relating to the total amounts and maturities of the deposits placed by such broker for each depository institution during the applicable quarter. Such regulations shall specify the form and content of such reports, as well as the applicable reporting period.

"(2) DESIGNATED AGENT.—The Corporation may designate another entity as its agent for the purpose of receiving and

maintaining reports under this subsection. If the Corporation designates such an agent the Corporation may, through its agent, prescribe and collect an appropriate quarterly fee from each deposit broker that filed reports with the agent during the applicable quarter, in an amount sufficient to defray the Corporation's cost of retaining the agent and to reflect the proportionate amount of the deposits placed with insured depository institutions by each broker during the applicable quarter.".

(c) DEPOSIT SOLICITATION RESTRICTED.—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended by adding at the end the following:

"(h) DEPOSIT SOLICITATION RESTRICTED.—An insured depository institution that is undercapitalized, as defined in section 38, shall not solicit deposits by offering rates of interest that are significantly higher than the prevailing rates of interest on insured deposits—

"(1) in such institution's normal market areas; or

"(2) in the market area in which such deposits would otherwise be accepted.".

(d) DEADLINE FOR REGULATIONS.—The Corporation shall promulgate final regulations to carry out the amendments made under subsections (a), (b), and (c) not later than 150 days after the date of enactment of this Act, and those regulations shall become effective not later than 180 days after that date of enactment, except that such regulations shall not apply to any specific time deposit made before that date of enactment until the stated maturity of the time deposit. 12 USC 1831f note.

SEC. 302. RISK-BASED ASSESSMENTS.

(a) RISK-BASED ASSESSMENT SYSTEM.—Section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended to read as follows:

"(b) ASSESSMENTS.—

"(1) RISK-BASED ASSESSMENT SYSTEM.—

"(A) RISK-BASED ASSESSMENT SYSTEM REQUIRED.—The Board of Directors shall, by regulation, establish a risk-based assessment system for insured depository institutions.

"(B) PRIVATE REINSURANCE AUTHORIZED.—In carrying out this paragraph, the Corporation may—

"(i) obtain private reinsurance covering not more than 10 percent of any loss the Corporation incurs with respect to an insured depository institution; and

"(ii) base that institution's semiannual assessment (in whole or in part) on the cost of the reinsurance.

"(C) RISK-BASED ASSESSMENT SYSTEM DEFINED.—For purposes of this paragraph, the term 'risk-based assessment system' means a system for calculating a depository institution's semiannual assessment based on—

"(i) the probability that the deposit insurance fund will incur a loss with respect to the institution, taking into consideration the risks attributable to—

"(I) different categories and concentrations of assets;

"(II) different categories and concentrations of liabilities, both insured and uninsured, contingent and noncontingent; and

"(III) any other factors the Corporation determines are relevant to assessing such probability;

"(ii) the likely amount of any such loss; and

"(iii) the revenue needs of the deposit insurance fund.

"(D) SEPARATE ASSESSMENT SYSTEMS.—The Board of Directors may establish separate risk-based assessment systems for large and small members of each deposit insurance fund.

"(2) SETTING ASSESSMENTS.—

"(A) ACHIEVING AND MAINTAINING DESIGNATED RESERVE RATIO.—

"(i) IN GENERAL.—The Board of Directors shall set semiannual assessments for insured depository institutions—

"(I) to maintain the reserve ratio of each deposit insurance fund at the designated reserve ratio; or

"(II) if the reserve ratio is less than the designated reserve ratio, to increase the reserve ratio to the designated reserve ratio as provided in paragraph (3).

"(ii) FACTORS TO BE CONSIDERED.—In carrying out clause (i), the Board of Directors shall consider the deposit insurance fund's—

"(I) expected operating expenses,

"(II) case resolution expenditures and income,

"(III) the effect of assessments on members' earnings and capital, and

"(IV) any other factors that the Board of Directors may deem appropriate.

"(iii) MINIMUM ASSESSMENT.—The semiannual assessment for each member of a deposit insurance fund shall be not less than $1,000.

"(iv) DESIGNATED RESERVE RATIO DEFINED.—The designated reserve ratio of each deposit insurance fund for each year shall be—

"(I) 1.25 percent of estimated insured deposits; or

"(II) a higher percentage of estimated insured deposits that the Board of Directors determines to be justified for that year by circumstances raising a significant risk of substantial future losses to the fund.

"(B) INDEPENDENT TREATMENT OF FUNDS.—The Board of Directors shall—

"(i) set semiannual assessments for members of each deposit insurance fund independently from semiannual assessments for members of any other deposit insurance fund; and

"(ii) set the designated reserve ratio of each deposit insurance fund independently from the designated reserve ratio of any other deposit insurance fund.

"(C) NOTICE OF ASSESSMENTS.—The Corporation shall notify each insured depository institution of that institution's semiannual assessment.

"(D) PRIORITY OF FINANCING CORPORATION AND FUNDING CORPORATION ASSESSMENTS.—Notwithstanding any other provision of this paragraph, amounts assessed by the Financing Corporation under section 21 of the Federal

Home Loan Bank Act against Savings Association Insurance Fund members, shall be subtracted from the amounts authorized to be assessed by the Corporation under this paragraph.

"(E) MINIMUM ASSESSMENTS.—The Corporation shall design the risk-based assessment system for any deposit insurance fund so that, if the Corporation has borrowings outstanding under section 14 on behalf of that fund or the reserve ratio of that fund remains below the designated reserve ratio, the total amount raised by semiannual assessments on members of that fund shall be not less than the total amount that would have been raised if—

"(i) section 7(b) as in effect on July 15, 1991 remained in effect; and

"(ii) the assessment rate in effect on July 15, 1991 remained in effect.

"(F) TRANSITION RULE FOR SAVINGS ASSOCIATION INSURANCE FUND.—With respect to the Savings Association Insurance Fund, during the period beginning on the effective date of the amendments made by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and ending on December 31, 1997—

"(i) subparagraph (A)(i)(II) shall apply as if such subparagraph did not include 'as provided in paragraph (3)'; and

"(ii) subparagraph (E) shall be applied by substituting 'if section 7(b) as in effect on July 15, 1991 remained in effect.' for 'if—' and all that follows through clause (ii).

"(G) SPECIAL RULE UNTIL THE INSURANCE FUNDS ACHIEVE THE DESIGNATED RESERVE RATIO.—Until a deposit insurance fund achieves the designated reserve ratio, the Corporation may limit the maximum assessment on insured depository institutions under the risk-based assessment system authorized under paragraph (1) to not less than 10 basis points above the average assessment on insured depository institutions under that system.

"(3) SPECIAL RULE FOR RECAPITALIZING UNDERCAPITALIZED FUNDS.—

"(A) IN GENERAL.—Except as provided in paragraph (2)(F), if the reserve ratio of any deposit insurance fund is less than the designated reserve ratio under paragraph (2)(A)(iv), the Board of Directors shall set semiannual assessment rates for members of that fund—

"(i) that are sufficient to increase the reserve ratio for that fund to the designated reserve ratio not later than 1 year after such rates are set; or

"(ii) in accordance with a schedule promulgated by the Corporation under subparagraph (B).

"(B) RECAPITALIZATION SCHEDULES.—For purposes of subparagraph (A)(ii), the Corporation shall by regulation promulgate a schedule that specifies, at semiannual intervals, target reserve ratios for that fund, culminating in a reserve ratio that is equal to the designated reserve ratio not later than 15 years after the date on which the schedule is implemented.

"(C) AMENDING SCHEDULE.—The Corporation may, by regulation, amend a schedule promulgated under subparagraph (B), but such amendments may not extend the date specified in subparagraph (B).

"(D) APPLICATION TO SAIF MEMBERS.—This paragraph shall become applicable to Savings Association Insurance Fund members on January 1, 1998.

"(4) SEMIANNUAL PERIOD DEFINED.—For purposes of this section, the term 'semiannual period' means a period beginning on January 1 of any calendar year and ending on June 30 of the same year, or a period beginning on July 1 of any calendar year and ending on December 31 of the same year.

"(5) RECORDS TO BE MAINTAINED.—Each insured depository institution shall maintain all records that the Corporation may require for verifying the correctness of the institution's semiannual assessments. No insured depository institution shall be required to retain those records for that purpose for a period of more than 5 years from the date of the filing of any certified statement, except that when there is a dispute between the insured depository institution and the Corporation over the amount of any assessment, the depository institution shall retain the records until final determination of the issue.".

(b) CERTIFIED STATEMENTS AND PAYMENT PROCEDURES.—Section 7(c) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) is amended to read as follows:

"(c) CERTIFIED STATEMENTS; PAYMENTS.—

"(1) CERTIFIED STATEMENTS REQUIRED.—

"(A) IN GENERAL.—Each insured depository institution shall file with the Corporation a certified statement containing such information as the Corporation may require for determining the institution's semiannual assessment.

"(B) FORM OF CERTIFICATION.—The certified statement required under subparagraph (A) shall—

"(i) be in such form and set forth such supporting information as the Board of Directors shall prescribe; and

"(ii) be certified by the president of the depository institution or any other officer designated by its board of directors or trustees that to the best of his or her knowledge and belief, the statement is true, correct and complete, and in accordance with this Act and regulations issued hereunder.

"(2) PAYMENTS REQUIRED.—

"(A) IN GENERAL.—Each insured depository institution shall pay to the Corporation the semiannual assessment imposed under subsection (b).

"(B) FORM OF PAYMENT.—The payments required under subparagraph (A) shall be made in such manner and at such time or times as the Board of Directors shall prescribe by regulation.

"(3) NEWLY INSURED INSTITUTIONS.—To facilitate the administration of this section, the Board of Directors may waive the requirements of paragraphs (1) and (2) for the semiannual period in which a depository institution becomes insured.".

12 USC 1817 note.

(c) REGULATIONS.—To implement the risk-based assessment system required under section 7(b) of the Federal Deposit Insurance

Act (as amended by subsection (a)), the Federal Deposit Insurance Corporation shall— Federal Register, publication.

(1) provide notice of proposed regulations in the Federal Register, not later than December 31, 1992, with an opportunity for comment on the proposal of not less than 120 days; and

(2) promulgate final regulations not later than July 1, 1993.

(d) AUTHORITY TO PRESCRIBE REGULATIONS AND DEFINITIONS.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following:

"(f) AUTHORITY TO PRESCRIBE REGULATIONS AND DEFINITIONS.—Except to the extent that authority under this Act is conferred on any of the Federal banking agencies other than the Corporation, the Corporation may—

"(1) prescribe regulations to carry out this Act; and

"(2) by regulation define terms as necessary to carry out this Act.".

(e) CONFORMING AMENDMENTS.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 5(d)(3)(B)— 12 USC 1815.

(A) by striking "average assessment base" and inserting "deposits"; and

(B) by striking "shall—" and all that follows through "(iii) shall be treated" and inserting "shall be treated";

(2) in section 7(a)(5) by striking "and for the computation of assessments provided in subsection (b) of this section"; 12 USC 1817.

(3) in section 7 by amending subsection (d) to read as follows:

"(d) CORPORATION EXEMPT FROM APPORTIONMENT.—Notwithstanding any other provision of law, amounts received pursuant to any assessment under this section and any other amounts received by the Corporation shall not be subject to apportionment for the purposes of chapter 15 of title 31, United States Code, or under any other authority."; and

(4) in the last sentence of section 8(q) by striking "upon" and inserting "with respect to". 12 USC 1818.

(f) TRANSITION TO NEW ASSESSMENT SYSTEM.—To carry out the amendments made by this section, the Corporation may promulgate regulations governing the transition from the assessment system in effect on the date of enactment of this Act to the assessment system required under the amendments made by this section. 12 USC 1817 note.

(g) EFFECTIVE DATE OF AMENDMENTS.—The amendments made by this section shall become effective on the earlier of— 12 USC 1817 note.

(1) 180 days after the date on which final regulations promulgated in accordance with subsection (c) become effective; or

(2) January 1, 1994.

SEC. 303. RESTRICTIONS ON INSURED STATE BANK ACTIVITIES.

(a) IN GENERAL.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 23 the following new section:

"SEC. 24. ACTIVITIES OF INSURED STATE BANKS. 12 USC 1831a note.

"(a) IN GENERAL.—After the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, an insured State bank may not engage as principal in any type of activity that is not permissible for a national bank unless—

"(1) the Corporation has determined that the activity would pose no significant risk to the appropriate deposit insurance fund; and

"(2) the State bank is, and continues to be, in compliance with applicable capital standards prescribed by the appropriate Federal banking agency.

"(b) INSURANCE UNDERWRITING.—

"(1) IN GENERAL.—Notwithstanding subsection (a), an insured State bank may not engage in insurance underwriting except to the extent that activity is permissible for national banks.

"(2) EXCEPTION FOR CERTAIN FEDERALLY REINSURED CROP INSURANCE.—Notwithstanding any other provision of law, an insured State bank or any of its subsidiaries that provided insurance on or before September 30, 1991, which was reinsured in whole or in part by the Federal Crop Insurance Corporation may continue to provide such insurance.".

"(c) EQUITY INVESTMENTS BY INSURED STATE BANKS.—

"(1) IN GENERAL.—An insured State bank may not, directly or indirectly, acquire or retain any equity investment of a type that is not permissible for a national bank.

"(2) EXCEPTION FOR CERTAIN SUBSIDIARIES.—Paragraph (1) shall not prohibit an insured State bank from acquiring or retaining an equity investment in a subsidiary of which the insured State bank is a majority owner.

"(3) EXCEPTION FOR QUALIFIED HOUSING PROJECTS.—

"(A) EXCEPTION.—Notwithstanding any other provision of this subsection, an insured State bank may invest as a limited partner in a partnership, the sole purpose of which is direct or indirect investment in the acquisition, rehabilitation, or new construction of a qualified housing project.

"(B) LIMITATION.—The aggregate of the investments of any insured State bank pursuant to this paragraph shall not exceed 2 percent of the total assets of the bank.

"(C) QUALIFIED HOUSING PROJECT DEFINED.—As used in this paragraph—

"(i) QUALIFIED HOUSING PROJECT.—The term 'qualified housing project' means residential real estate that is intended to primarily benefit lower income people throughout the period of the investment.

"(ii) LOWER INCOME.—The term 'lower income' means income that is less than or equal to the median income based on statistics from State or Federal sources.

"(4) TRANSITION RULE.—

"(A) IN GENERAL.—The Corporation shall require any insured State bank to divest any equity investment the retention of which is not permissible under this subsection as quickly as can be prudently done, and in any event before the end of the 5-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991.

"(B) TREATMENT OF NONCOMPLIANCE DURING DIVESTMENT.—With respect to any equity investment held by any insured State bank on the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991 which was lawfully acquired before such date, the bank shall be deemed not to be in violation of the prohibition in

this subsection on retaining such investment so long as the bank complies with the applicable requirements established by the Corporation for divesting such investments.

"(d) SUBSIDIARIES OF INSURED STATE BANKS.—

"(1) IN GENERAL.—After the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, a subsidiary of an insured State bank may not engage as principal in any type of activity that is not permissible for a subsidiary of a national bank unless—

"(A) the Corporation has determined that the activity poses no significant risk to the appropriate deposit insurance fund; and

"(B) the bank is, and continues to be, in compliance with applicable capital standards prescribed by the appropriate Federal banking agency.

"(2) INSURANCE UNDERWRITING PROHIBITED.—

"(A) PROHIBITION.—Notwithstanding paragraph (1), no subsidiary of an insured State bank may engage in insurance underwriting except to the extent such activities are permissible for national banks.

"(B) CONTINUATION OF EXISTING ACTIVITIES.—Notwithstanding subparagraph (A), a well-capitalized insured State bank or any of its subsidiaries that was lawfully providing insurance as principal in a State on November 21, 1991, may continue to provide, as principal, insurance of the same type to residents of the State (including companies or partnerships incorporated in, organized under the laws of, licensed to do business in, or having an office in the State, but only on behalf of their employees resident in or property located in the State), individuals employed in the State, and any other person to whom the bank or subsidiary has provided insurance as principal, without interruption, since such person resided in or was employed in such State.

"(C) EXCEPTION.—Subparagraph (A) does not apply to a subsidiary of an insured State bank if—

"(i) the insured State bank was required, before June 1, 1991, to provide title insurance as a condition of the bank's initial chartering under State law; and

"(ii) control of the insured State bank has not changed since that date.

"(e) SAVINGS BANK LIFE INSURANCE.—

"(1) IN GENERAL.—No provision of this Act shall be construed as prohibiting or impairing the sale or underwriting of savings bank life insurance, or the ownership of stock in a savings bank life insurance company, by any insured bank which—

"(A) is located in the Commonwealth of Massachusetts or the State of New York or Connecticut; and State listing.

"(B) meets the consumer disclosure requirements under section 18(k) with respect to such insurance.

"(2) FDIC FINDING AND ACTION REGARDING RISK.—

"(A) FINDING.—Before the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Corporation shall make a finding whether savings bank life insurance activities of insured banks pose or may pose any

significant risk to the insurance fund of which such banks are members.

"(B) ACTIONS.—

"(i) IN GENERAL.—The Corporation shall, pursuant to any finding made under subparagraph (A), take appropriate actions to address any risk that exists or may subsequently develop with respect to insured banks described in paragraph (1)(A).

"(ii) AUTHORIZED ACTIONS.—Actions the Corporation may take under this subparagraph include requiring the modification, suspension, or termination of insurance activities conducted by any insured bank if the Corporation finds that the activities pose a significant risk to any insured bank described in paragraph (1)(A) or to the insurance fund of which such bank is a member.

"(f) COMMON AND PREFERRED STOCK INVESTMENT.—

"(1) IN GENERAL.—An insured State bank shall not acquire or retain, directly or indirectly, any equity investment of a type or in an amount that is not permissible for a national bank or is not otherwise permitted under this section.

"(2) EXCEPTION FOR BANKS IN CERTAIN STATES.—Notwithstanding paragraph (1), an insured State bank may, to the extent permitted by the Corporation, acquire and retain ownership of securities described in paragraph (1) to the extent the aggregate amount of such investment does not exceed an amount equal to 100 percent of the bank's capital if such bank—

"(A) is located in a State that permitted, as of September 30, 1991, investment in common or preferred stock listed on a national securities exchange or shares of an investment company registered under the Investment Company Act of 1940; and

"(B) made or maintained an investment in such securities during the period beginning on September 30, 1990, and ending on November 26, 1991.

"(3) EXCEPTION FOR CERTAIN TYPES OF INSTITUTIONS.—Notwithstanding paragraph (1), an insured State bank may—

"(A) acquire not more than 10 percent of a corporation that only—

"(i) provides directors', trustees', and officers' liability insurance coverage or bankers' blanket bond group insurance coverage for insured depository institutions; or

"(ii) reinsures such policies; and

"(B) acquire or retain shares of a depository institution if—

"(i) the institution engages only in activities permissible for national banks;

"(ii) the institution is subject to examination and regulation by a State bank supervisor;

"(iii) 20 or more depository institutions own shares of the institution and none of those institutions owns more than 15 percent of the institution's shares; and

"(iv) the institution's shares (other than directors' qualifying shares or shares held under or initially acquired through a plan established for the benefit of the

institution's officers and employees) are owned only by the institution.

"(4) TRANSITION PERIOD FOR COMMON AND PREFERRED STOCK INVESTMENTS.—

"(A) IN GENERAL.—During each year in the 3-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, each insured State bank shall reduce by not less than 1/3 of its shares (as of such date of enactment) the bank's ownership of securities in excess of the amount equal to 100 percent of the capital of such bank.

"(B) COMPLIANCE AT END OF PERIOD.—By the end of the 3-year period referred to in subparagraph (A), each insured State bank and each subsidiary of a State bank shall be in compliance with the maximum amount limitations on investments referred to in paragraph (1).

"(5) LOSS OF EXCEPTION UPON ACQUISITION.—Any exception applicable under paragraph (2) with respect to any insured State bank shall cease to apply with respect to such bank upon any change in control of such bank or any conversion of the charter of such bank.

"(6) NOTICE AND APPROVAL.—An insured State bank may only engage in any investment pursuant to paragraph (2) if—

"(A) the bank has filed a 1-time notice of the bank's intention to acquire and retain investments described in paragraph (1); and

"(B) the Corporation has determined, within 60 days of receiving such notice, that acquiring or retaining such investments does not pose a significant risk to the insurance fund of which such bank is a member.

"(7) DIVESTITURE.—

"(A) IN GENERAL.—The Corporation may require divestiture by an insured State bank of any investment permitted under this subsection if the Corporation determines that such investment will have an adverse effect on the safety and soundness of the bank.

"(B) REASONABLE STANDARD.—The Corporation shall not require divestiture by any bank pursuant to subparagraph (A) without reason to believe that such investment will have an adverse effect on the safety and soundness of the bank.

"(g) DETERMINATIONS.—The Corporation shall make determinations under this section by regulation or order.

"(h) ACTIVITY DEFINED.—For purposes of this section, the term 'activity' includes acquiring or retaining any investment.

"(i) OTHER AUTHORITY NOT AFFECTED.—This section shall not be construed as limiting the authority of any appropriate Federal banking agency or any State supervisory authority to impose more stringent restrictions.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The 13th undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 330) is amended by striking ": *Provided, however,* That no Federal reserve bank" and inserting ", except that the Board of Governors of the Federal Reserve System may limit the activities of State member banks and subsidiaries of State member banks in a manner consistent with section 24 of the Federal Deposit Insurance Act. No Federal reserve bank".

SEC. 304. RESTRICTIONS ON REAL ESTATE LENDING.

(a) IN GENERAL.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(o) REAL ESTATE LENDING.—

"(1) UNIFORM REGULATIONS.—Not more than 9 months after the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, each appropriate Federal banking agency shall adopt uniform regulations prescribing standards for extensions of credit that are—

"(A) secured by liens on interests in real estate; or

"(B) made for the purpose of financing the construction of a building or other improvements to real estate.

"(2) STANDARDS.—

"(A) CRITERIA.—In prescribing standards under paragraph (1), the agencies shall consider—

"(i) the risk posed to the deposit insurance funds by such extensions of credit;

"(ii) the need for safe and sound operation of insured depository institutions; and

"(iii) the availability of credit.

"(B) VARIATIONS PERMITTED.—In prescribing standards under paragraph (1), the appropriate Federal banking agencies may differentiate among types of loans—

"(i) as may be required by Federal statute;

"(ii) as may be warranted, based on the risk to the deposit insurance fund; or

"(iii) as may be warranted, based on the safety and soundness of the institutions.

"(3) LOAN EVALUATION STANDARD.—No appropriate Federal banking agency shall adversely evaluate an investment or a loan made by an insured depository institution, or consider such a loan to be nonperforming, solely because the loan is made to or the investment is in commercial, residential, or industrial property, unless such investment or loan may affect the institution's safety and soundness.

"(4) EFFECTIVE DATE.—The regulations adopted under paragraph (1) shall become effective not later than 15 months after the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991. Such regulations shall continue in effect except as uniformly amended by the appropriate Federal banking agencies, acting in concert.".

(b) CONFORMING AMENDMENT.—Section 24(a) of the Federal Reserve Act (12 U.S.C. 371(a)) is amended by striking "such terms," and all that follows through the period and inserting "section 18(o) of the Federal Deposit Insurance Act and such restrictions and requirements as the Comptroller of the Currency may prescribe by regulation or order.".

SEC. 305. IMPROVING CAPITAL STANDARDS.

(a) PERIODIC REVIEW OF CAPITAL STANDARDS GENERALLY.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(o) PERIODIC REVIEW OF CAPITAL STANDARDS.—Each appropriate Federal banking agency shall, in consultation with the other Federal banking agencies, biennially review its capital standards for insured depository institutions to determine whether those stand-

ards require sufficient capital to facilitate prompt corrective action to prevent or minimize loss to the deposit insurance funds, consistent with section 38.".

12 USC 1828 note.

(b) REVIEW OF RISK-BASED CAPITAL STANDARDS.—

(1) IN GENERAL.—Each appropriate Federal banking agency shall revise its risk-based capital standards for insured depository institutions to ensure that those standards—

(A) take adequate account of—

(i) interest-rate risk;

(ii) concentration of credit risk; and

(iii) the risks of nontraditional activities; and

(B) reflect the actual performance and expected risk of loss of multifamily mortgages.

(2) INTERNATIONAL DISCUSSIONS.—The Federal banking agencies shall discuss the development of comparable standards with members of the supervisory committee of the Bank for International Settlements.

(3) DEADLINE FOR PRESCRIBING REVISED STANDARDS.—Each appropriate Federal banking agency shall—

Federal Register, publication.

(A) publish final regulations in the Federal Register to implement paragraph (1) not later than 18 months after the date of enactment of this Act; and

(B) establish reasonable transition rules to facilitate compliance with those regulations.

(4) DEFINITIONS.—For purposes of this subsection, the terms "appropriate Federal banking agency", "Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(c) CONFORMING AMENDMENT DEFINING FEDERAL BANKING AGENCIES.—Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) is amended by adding at the end the following:

"(z) FEDERAL BANKING AGENCIES.—The term 'Federal banking agencies' means the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.".

SEC. 306. SAFEGUARDS AGAINST INSIDER ABUSE.

(a) RECODIFICATION OF CURRENT LAW RESTRICTING EXTENSIONS OF CREDIT TO INSIDERS.—Section 22(h) of the Federal Reserve Act (12 U.S.C. 375b) is amended to read as follows:

"(h) EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS OF MEMBER BANKS.—

"(1) IN GENERAL.—No member bank may extend credit to any of its executive officers, directors, or principal shareholders, or to any related interest of such a person, except to the extent permitted under paragraphs (2), (3), (4), and (6).

"(2) PREFERENTIAL TERMS PROHIBITED.—A member bank may extend credit to its executive officers, directors, or principal shareholders, or to any related interest of such a person, only if the extension of credit—

"(A) is made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions by the bank with persons who are not executive officers, directors, principal shareholders, or employees of the bank; and

"(B) does not involve more than the normal risk of repayment or present other unfavorable features.

"(3) PRIOR APPROVAL REQUIRED.—A member bank may extend credit to a person described in paragraph (1) in an amount that, when aggregated with the amount of all other outstanding extensions of credit by that bank to each such person and that person's related interests, would exceed an amount prescribed by regulation of the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act) only if—

"(A) the extension of credit has been approved in advance by a majority vote of that bank's entire board of directors; and

"(B) the interested party has abstained from participating, directly or indirectly, in the deliberations or voting on the extension of credit.

"(4) AGGREGATE LIMIT ON EXTENSIONS OF CREDIT TO ANY EXECUTIVE OFFICER OR PRINCIPAL SHAREHOLDER.—A member bank may extend credit to any executive officer or principal shareholder, or to any related interest of such a person, only if the extension of credit is in an amount that, when aggregated with the amount of all outstanding extensions of credit by that bank to that person and that person's related interests, would not exceed the limits on loans to a single borrower established by section 5200 of the Revised Statutes. For purposes of this paragraph, section 5200 of the Revised Statutes shall be deemed to apply to a State member bank as if the State member bank were a national banking association.

"(5) [Reserved.]

"(6) OVERDRAFTS BY EXECUTIVE OFFICERS AND DIRECTORS PROHIBITED.—

"(A) IN GENERAL.—If any executive officer or director has an account at the member bank, the bank may not pay on behalf of that person an amount exceeding the funds on deposit in the account.

"(B) EXCEPTIONS.—Subparagraph (A) does not prohibit a member bank from paying funds in accordance with—

"(i) a written preauthorized, interest-bearing extension of credit specifying a method of repayment; and

"(ii) a written preauthorized transfer of funds from another account of the executive officer or director at that bank.

"(7) [Reserved.]

"(8) EXECUTIVE OFFICER, DIRECTOR, OR PRINCIPAL SHAREHOLDER OF CERTAIN AFFILIATES TREATED AS EXECUTIVE OFFICER, DIRECTOR, OR PRINCIPAL SHAREHOLDER OF MEMBER BANK.—For purposes of this subsection, any executive officer, director, or principal shareholder (as the case may be) of any bank holding company of which the member bank is a subsidiary, or of any other subsidiary of that company, shall be deemed to be an executive officer, director, or principal shareholder (as the case may be) of the member bank.

"(9) DEFINITIONS.—For purposes of this subsection:

"(A) COMPANY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'company' means any corporation, partnership, business or other trust, association, joint venture,

pool syndicate, sole proprietorship, unincorporated organization, or other business entity.

"(ii) EXCEPTIONS.—The term 'company' does not include—

"(I) an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act); or

"(II) a corporation the majority of the shares of which are owned by the United States or by any State.

"(B) CONTROL.—A person controls a company or bank if that person, directly or indirectly, or acting through or in concert with 1 or more persons—

"(i) owns, controls, or has the power to vote 25 percent or more of any class of the company's voting securities;

"(ii) controls in any manner the election of a majority of the company's directors; or

"(iii) has the power to exercise a controlling influence over the company's management or policies.

"(C) EXECUTIVE OFFICER.—A person is an 'executive officer' of a company or bank if that person participates or has authority to participate (other than as a director) in major policymaking functions of the company or bank.

"(D) EXTENSION OF CREDIT.—A member bank extends credit by making or renewing any loan, granting a line of credit, or entering into any similar transaction as a result of which a person becomes obligated (directly or indirectly, or by any means whatsoever) to pay money or its equivalent to the bank.

"(E) [Reserved.]

"(F) PRINCIPAL SHAREHOLDER.—The term 'principal shareholder' means any person that directly or indirectly, or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than 10 percent of any class of voting securities of a member bank or company. For purposes of paragraph (4), if a member bank has its main banking office in a city, town, or village with a population of less than 30,000, the preceding sentence shall apply with '18 percent' substituted for '10 percent'.

"(G) RELATED INTEREST.—A 'related interest' of a person is—

"(i) any company controlled by that person; and

"(ii) any political or campaign committee that is controlled by that person or the funds or services of which will benefit that person.

"(H) SUBSIDIARY.—The term 'subsidiary' has the same meaning as in section 2 of the Bank Holding Company Act of 1956.

"(10) BOARD'S RULEMAKING AUTHORITY.—The Board of Governors of the Federal Reserve System may prescribe such regulations, including definitions of terms, as it determines to be necessary to effectuate the purposes and prevent evasions of this subsection.".

(b) REQUIRING DEPOSITORY INSTITUTIONS TO FOLLOW NORMAL CREDIT UNDERWRITING PROCEDURES WHEN EXTENDING CREDIT TO

INSIDERS.—Section 22(h)(2) of the Federal Reserve Act (12 U.S.C. 375b(2)), as amended by subsection (a), is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) the bank follows credit underwriting procedures that are not less stringent than those applicable to comparable transactions by the bank with persons who are not executive officers, directors, principal shareholders, or employees of the bank.".

(c) APPLYING TO DIRECTORS THE LIMIT ON LOANS TO ONE BORROWER.—Section 22(h)(4) of the Federal Reserve Act (12 U.S.C. 375b(4)), as amended by subsection (a), is amended—

(1) by inserting ", DIRECTOR," after "AGGREGATE LIMIT ON EXTENSIONS OF CREDIT TO ANY EXECUTIVE OFFICER"; and

(2) by inserting ", director," after "A member bank may extend credit to any executive officer".

(d) LIMITING DEPOSITORY INSTITUTION'S AGGREGATE EXTENSIONS OF CREDIT TO INSIDERS.—

(1) IN GENERAL.—Section 22(h)(5) of the Federal Reserve Act (12 U.S.C. 375b(5)), as amended by subsection (a), is amended to read as follows:

"(5) AGGREGATE LIMIT ON EXTENSIONS OF CREDIT TO ALL EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS.—

"(A) IN GENERAL.—A member bank may extend credit to any executive officer, director, or principal shareholder, or to any related interest of such a person, if the extension of credit is in an amount that, when aggregated with the amount of all outstanding extensions of credit by that bank to its executive officers, directors, principal shareholders, and those persons' related interests would not exceed the bank's unimpaired capital and unimpaired surplus.

"(B) MORE STRINGENT LIMIT AUTHORIZED.—The Board may, by regulation, prescribe a limit that is more stringent than that contained in subparagraph (A).

"(C) BOARD MAY MAKE EXCEPTIONS FOR CERTAIN BANKS.—The Board may, by regulation, make exceptions to subparagraph (A) for member banks with less than $100,000,000 in deposits if the Board determines that the exceptions are important to avoid constricting the availability of credit in small communities or to attract directors to such banks. In no case may the aggregate amount of all outstanding extensions of credit to a bank's executive officers, directors, principal shareholders, and those persons' related interests be more than 2 times the bank's unimpaired capital and unimpaired surplus.".

(2) CONFORMING AMENDMENT.—Section 22(h)(1) of the Federal Reserve Act (12 U.S.C. 375b(1)), as amended by subsection (a), is amended by inserting "(5)," after "(4),".

(e) PROHIBITING INSIDERS FROM ACCEPTING UNAUTHORIZED EXTENSIONS OF CREDIT.—Section 22(h)(7) of the Federal Reserve Act (12 U.S.C. 375b(7)), as amended by subsection (a), is amended to read as follows:

"(7) PROHIBITION ON KNOWINGLY RECEIVING UNAUTHORIZED EXTENSION OF CREDIT.—No executive officer, director, or prin-

cipal shareholder shall knowingly receive (or knowingly permit any of that person's related interests to receive) from a member bank, directly or indirectly, any extension of credit not authorized under this subsection.".

(f) APPLYING UNIFORM RULES TO ALL COMPANIES CONTROLLING DEPOSITORY INSTITUTIONS.—Section 22(h)(8) of the Federal Reserve Act (12 U.S.C. 375b(8)), as amended by subsection (a), is amended by striking "bank holding".

(g) APPLYING SAFEGUARDS TO INSIDER TRANSACTIONS WITH DEPOSITORY INSTITUTION'S SUBSIDIARIES.—Section 22(h)(9)(E) of the Federal Reserve Act (12 U.S.C. 375b(9)(E)), as amended by subsection (a), is amended to read as follows:

"(E) MEMBER BANK.—The term 'member bank' includes any subsidiary of a member bank.".

(h) APPLYING UNIFORM RULES TO ALL PRINCIPAL SHAREHOLDERS.—Section 22(h)(9)(F) of the Federal Reserve Act (12 U.S.C. 375b(9)(F)), as amended by subsection (a), is amended by striking the last sentence.

(i) LIMITING SAVINGS ASSOCIATIONS' EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS.—Section 11(b)(1) of the Home Owners' Loan Act (12 U.S.C. 1468(b)(1)) is amended by striking "Section 22(h)" and inserting "Subsections (g) and (h) of section 22".

(j) PREVENTING SAVINGS ASSOCIATIONS FROM MAKING PREFERENTIAL EXTENSIONS OF CREDIT THROUGH CORRESPONDENT INSTITUTIONS.—Section 106(b)(2)(H)(i) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972(2)(H)(i)) is amended by inserting ", a savings bank, and a savings association (as those terms are defined in section 3 of the Federal Deposit Insurance Act)" after "mutual savings bank".

(k) LIMITING STATE NONMEMBER BANK'S EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS; CLARIFYING THE PROHIBITION ON PREFERENTIAL EXTENSIONS OF CREDIT TO INSIDERS.—Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is amended to read as follows:

"(j) RESTRICTIONS ON TRANSACTIONS WITH AFFILIATES AND INSIDERS.—

"(1) TRANSACTIONS WITH AFFILIATES.—

"(A) IN GENERAL.—Sections 23A and 23B of the Federal Reserve Act shall apply with respect to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.

"(B) AFFILIATE DEFINED.—For the purpose of subparagraph (A), any company that would be an affiliate (as defined in sections 23A and 23B) of a nonmember insured bank if the nonmember insured bank were a member bank shall be deemed to be an affiliate of that nonmember insured bank.

"(2) EXTENSIONS OF CREDIT TO OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS.—Subsections (g) and (h) of section 22 of the Federal Reserve Act shall apply with respect to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.

"(3) AVOIDING EXTRATERRITORIAL APPLICATION TO FOREIGN BANKS.—

"(A) TRANSACTIONS WITH AFFILIATES.—Paragraph (1) shall not apply with respect to a foreign bank solely because the foreign bank has an insured branch.

"(B) EXTENSIONS OF CREDIT TO OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS.—Paragraph (2) shall not apply with respect to a foreign bank solely because the foreign bank has an insured branch, but shall apply with respect to the insured branch.

"(C) FOREIGN BANK DEFINED.—For purposes of this paragraph, the term 'foreign bank' has the same meaning as in section 1(b)(7) of the International Banking Act of 1978.".

12 USC 375b note.

(l) EFFECTIVE DATE.—The amendments made by this section shall become effective upon the earlier of—

(1) the date on which final regulations under subsection (m)(1) become effective; or

(2) 150 days after the date of enactment of this Act.

12 USC 375b note.

(m) REGULATIONS.—

(1) IN GENERAL.—The Board of Governors of the Federal Reserve System shall, not later than 120 days after the date of enactment of this Act, promulgate final regulations to implement the amendments made by this section, other than the amendments made by subsections (i) and (k).

(2) LIMITING EXTENSIONS OF CREDIT TO EXECUTIVE OFFICERS.—The Federal Deposit Insurance Corporation and Director of the Office of Thrift Supervision shall each, not later than 120 days after the date of enactment of this Act, promulgate final regulations prescribing the maximum amount that a nonmember insured bank or insured savings association (as the case may be) may lend under section 22(g)(4) of the Federal Reserve Act, as made applicable to those institutions by subsections (k) and (i), respectively.

12 USC 375b note.

(n) EXISTING TRANSACTIONS NOT AFFECTED.—The amendments made by this section do not affect the validity of any extension of credit or other transaction lawfully entered into on or before the effective date of those amendments.

12 USC 375b note.

(o) REPORTING OF CREDIT BY EXECUTIVE OFFICERS AND DIRECTORS.—An executive officer or director of an insured depository institution, a bank holding company, or a savings and loan holding company, the shares of which are not publicly traded, shall report annually to the board of directors of the institution or holding company the outstanding amount of any credit that was extended to such executive officer or director and that is secured by shares of the institution or holding company.

SEC. 307. FDIC BACK-UP ENFORCEMENT AUTHORITY.

Section 8(t) of the Federal Deposit Insurance Act (12 U.S.C. 1818(t)) is amended to read as follows:

"(t) AUTHORITY OF FDIC TO TAKE ENFORCEMENT ACTION AGAINST INSURED DEPOSITORY INSTITUTIONS AND INSTITUTION-AFFILIATED PARTIES.—

"(1) RECOMMENDING ACTION BY APPROPRIATE FEDERAL BANKING AGENCY.—The Corporation, based on an examination of an insured depository institution by the Corporation or by the appropriate Federal banking agency or on other information, may recommend in writing to the appropriate Federal banking agency that the agency take any enforcement action authorized under section 7(j), this section, or section 18(j) with respect to any insured depository institution or any institution-affiliated party. The recommendation shall be accompanied by a written explanation of the concerns giving rise to the recommendation.

"(2) FDIC'S AUTHORITY TO ACT IF APPROPRIATE FEDERAL BANKING AGENCY FAILS TO FOLLOW RECOMMENDATION.—If the appropriate Federal banking agency does not, before the end of the 60-day period beginning on the date on which the agency receives the recommendation under paragraph (1), take the enforcement action recommended by the Corporation or provide a plan acceptable to the Corporation for responding to the Corporation's concerns, the Corporation may take the recommended enforcement action if the Board of Directors determines, upon a vote of its members, that—

"(A) the insured depository institution is in an unsafe or unsound condition;

"(B) the institution is engaging in unsafe or unsound practices, and the recommended enforcement action will prevent the institution from continuing such practices; or

"(C) the institution's conduct or threatened conduct (including any acts or omissions) poses a risk to the deposit insurance fund, or may prejudice the interests of the institution's depositors.

"(3) EFFECT OF EXIGENT CIRCUMSTANCES.—

"(A) AUTHORITY TO ACT.—The Corporation may, upon a vote of the Board of Directors, and after notice to the appropriate Federal banking agency, exercise its authority under paragraph (2) in exigent circumstances without regard to the time period set forth in paragraph (2).

"(B) AGREEMENT ON EXIGENT CIRCUMSTANCES.—The Corporation shall, by agreement with the appropriate Federal banking agency, set forth those exigent circumstances in which the Corporation may act under subparagraph (A).

"(4) CORPORATION'S POWERS; INSTITUTION'S DUTIES.—For purposes of this subsection—

"(A) the Corporation shall have the same powers with respect to any insured depository institution and its affiliates as the appropriate Federal banking agency has with respect to the institution and its affiliates; and

"(B) the institution and its affiliates shall have the same duties and obligations with respect to the Corporation as the institution and its affiliates have with respect to the appropriate Federal banking agency.

"(5) REQUESTS FOR FORMAL ACTIONS AND INVESTIGATIONS.—

"(A) SUBMISSION OF REQUESTS.—A regional office of an appropriate Federal banking agency (including a Federal Reserve bank) that requests a formal investigation of or civil enforcement action against an insured depository institution shall submit the request concurrently to the chief officer of the appropriate Federal banking agency and to the Corporation.

"(B) AGENCIES REQUIRED TO REPORT ON REQUESTS.—Each appropriate Federal banking agency shall report semiannually to the Corporation on the status or disposition of all requests under subparagraph (A), including the reasons for any decision by the agency to approve or deny such requests.".

SEC. 308. INTERBANK LIABILITIES.

(a) REDUCING SYSTEMIC RISKS POSED BY LARGE BANK FAILURES.—The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended by inserting after section 22 the following new section:

"INTERBANK LIABILITIES

12 USC 371b-2.

"SEC. 23. (a) PURPOSE.—The purpose of this section is to limit the risks that the failure of a large depository institution (whether or not that institution is an insured depository institution) would pose to insured depository institutions.

"(b) AGGREGATE LIMITS ON INSURED DEPOSITORY INSTITUTIONS' EXPOSURE TO OTHER DEPOSITORY INSTITUTIONS.—The Board shall, by regulation or order, prescribe standards that have the effect of limiting the risks posed by an insured depository institution's exposure to any other depository institution.

"(c) EXPOSURE DEFINED.—

"(1) IN GENERAL.—For purposes of subsection (b), an insured depository institution's 'exposure' to another depository institution means—

"(A) all extensions of credit to the other depository institution, regardless of name or description, including—

"(i) all deposits at the other depository institution;

"(ii) all purchases of securities or other assets from the other depository institution subject to an agreement to repurchase; and

"(iii) all guarantees, acceptances, or letters of credit (including endorsements or standby letters of credit) on behalf of the other depository institution;

"(B) all purchases of or investments in securities issued by the other depository institution;

"(C) all securities issued by the other depository institution accepted as collateral for an extension of credit to any person; and

"(D) all similar transactions that the Board by regulation determines to be exposure for purposes of this section.

"(2) EXEMPTIONS.—The Board may, at its discretion, by regulation or order, exempt transactions from the definition of 'exposure' if it finds the exemptions to be in the public interest and consistent with the purpose of this section.

"(3) ATTRIBUTION RULE.—For purposes of this section, any transaction by an insured depository institution with any person is a transaction with another depository institution to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, that other depository institution.

"(d) INSURED DEPOSITORY INSTITUTION.—For purposes of this section, the term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

"(e) RULEMAKING AUTHORITY; ENFORCEMENT.—The Board may issue such regulations and orders, including definitions consistent with this section, as may be necessary to administer and carry out the purpose of this section. The appropriate Federal banking agency shall enforce compliance with those regulations under section 8 of the Federal Deposit Insurance Act.".

12 USC 371b-2 note.

(b) TRANSITION RULES.—The Board shall prescribe reasonable transition rules to facilitate compliance with section 23 of the Federal Reserve Act (as added by subsection (a)).

(c) EFFECTIVE DATE.—The amendment made by this section shall become effective 1 year after the date of enactment of this Act. 12 USC 371b-2 note.

Subtitle B—Coverage

SEC. 311. DEPOSIT AND PASS-THROUGH INSURANCE.

(a) EXCLUSION OF CERTAIN OBLIGATIONS FROM DEPOSIT INSURANCE COVERAGE.—

(1) IN GENERAL.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) is amended by adding at the end the following new paragraph:

"(8) CERTAIN INVESTMENT CONTRACTS NOT TREATED AS INSURED DEPOSITS.—

"(A) IN GENERAL.—A liability of an insured depository institution shall not be treated as an insured deposit if the liability arises under any insured depository institution investment contract between any insured depository institution and any employee benefit plan which expressly permits benefit-responsive withdrawals or transfers.

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) BENEFIT-RESPONSIVE WITHDRAWALS OR TRANSFERS.—The term 'benefit-responsive withdrawals or transfers' means any withdrawal or transfer of funds (consisting of any portion of the principal and any interest credited at a rate guaranteed by the insured depository institution investment contract) during the period in which any guaranteed rate is in effect, without substantial penalty or adjustment, to pay benefits provided by the employee benefit plan or to permit a plan participant or beneficiary to redirect the investment of his or her account balance.

"(ii) EMPLOYEE BENEFIT PLAN.—The term 'employee benefit plan'—

"(I) has the meaning given to such term in section 3(3) of the Employee Retirement Income Security Act of 1974; and

"(II) includes any plan described in section 401(d) of the Internal Revenue Code of 1986.".

(2) EXCLUSION OF OBLIGATIONS FROM TREATMENT AS DEPOSITS FOR OTHER PURPOSES.—Section 7(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(6)) is amended—

(A) by striking "and" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) any liability of the insured depository institution which is not treated as an insured deposit pursuant to section 11(a)(8).".

(b) INSURANCE OF DEPOSITS.—

(1) INSURED AMOUNTS PAYABLE.—Section 11(a) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)) (as amended by subsection (a)(1) of this section) is amended by striking "(a)(1)" and all that follows through paragraph (1) and inserting the following:

"(a) DEPOSIT INSURANCE.—

"(1) INSURED AMOUNTS PAYABLE.—

"(A) IN GENERAL.—The Corporation shall insure the deposits of all insured depository institutions as provided in this Act.

"(B) NET AMOUNT OF INSURED DEPOSIT.—The net amount due to any depositor at an insured depository institution shall not exceed $100,000 as determined in accordance with subparagraphs (C) and (D).

"(C) AGGREGATION OF DEPOSITS.—For the purpose of determining the net amount due to any depositor under subparagraph (B), the Corporation shall aggregate the amounts of all deposits in the insured depository institution which are maintained by a depositor in the same capacity and the same right for the benefit of the depositor either in the name of the depositor or in the name of any other person, other than any amount in a trust fund described in section 7(i)(1).

"(D) COVERAGE ON PRO RATA OR 'PASS-THROUGH' BASIS.—

"(i) IN GENERAL.—Except as provided in clause (ii), for the purpose of determining the amount of insurance due under subparagraph (B), the Corporation shall provide deposit insurance coverage with respect to deposits accepted by any insured depository institution on a pro rata or 'pass-through' basis to a participant in or beneficiary of an employee benefit plan (as defined in section 11(a)(8)(B)(ii)), including any eligible deferred compensation plan described in section 457 of the Internal Revenue Code of 1986.

"(ii) EXCEPTION.—After the end of the 1-year period beginning on the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, the Corporation shall not provide insurance coverage on a pro rata or 'pass-through' basis pursuant to clause (i) with respect to deposits accepted by any insured depository institution which, at the time such deposits are accepted, may not accept brokered deposits under section 29.

"(iii) COVERAGE UNDER CERTAIN CIRCUMSTANCES.—Clause (ii) shall not apply with respect to any deposit accepted by an insured depository institution described in such clause if, at the time the deposit is accepted—

"(I) the institution meets each applicable capital standard; and

"(II) the depositor receives a written statement from the institution that such deposits at such institution are eligible for insurance coverage on a pro rata or 'pass-through' basis.".

(2) CERTAIN RETIREMENT ACCOUNTS.—Section 11(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(3)) is amended to read as follows:

"(3) CERTAIN RETIREMENT ACCOUNTS.—

"(A) IN GENERAL.—Notwithstanding any limitation in this Act relating to the amount of deposit insurance available for the account of any 1 depositor, deposits in an insured depository institution made in connection with—

"(i) any individual retirement account described in section 408(a) of the Internal Revenue Code of 1986;

"(ii) subject to the exception contained in paragraph (1)(D)(ii), any eligible deferred compensation plan described in section 457 of such Code; and

"(iii) any individual account plan defined in section 3(34) of the Employee Retirement Income Security Act, and any plan described in section 401(d) of the Internal Revenue Code of 1986, to the extent that participants and beneficiaries under such plan have the right to direct the investment of assets held in individual accounts maintained on their behalf by the plan,

shall be aggregated and insured in an amount not to exceed $100,000 per participant per insured depository institution.

"(B) AMOUNTS TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), the amount aggregated for insurance coverage under this paragraph shall consist of the present vested and ascertainable interest of each participant under the plan, excluding any remainder interest created by, or as a result of, the plan.".

(3) CERTAIN TRUST FUNDS.—Section 7(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(i)) is amended to read as follows:

"(i) INSURANCE OF TRUST FUNDS.—

"(1) IN GENERAL.—Trust funds held on deposit by an insured depository institution in a fiduciary capacity as trustee pursuant to any irrevocable trust established pursuant to any statute or written trust agreement shall be insured in an amount not to exceed $100,000 for each trust estate.

"(2) INTERBANK DEPOSITS.—Trust funds described in paragraph (1) which are deposited by the fiduciary depository institution in another insured depository institution shall be similarly insured to the fiduciary depository institution according to the trust estates represented.

"(3) REGULATIONS.—The Board of Directors may prescribe such regulations as may be necessary to clarify the insurance coverage under this subsection and to prescribe the manner of reporting and depositing such trust funds.".

(4) EXPANDED COVERAGE BY REGULATION.— 12 USC 1821 note.

(A) REVIEW OF COVERAGE.—For the purpose of prescribing regulations, during the 1-year period beginning on the date of the enactment of this Act, the Board of Directors shall review the capacities and rights in which deposit accounts are maintained and for which deposit insurance coverage is provided by the Corporation.

(B) REGULATIONS.—After the end of the 1-year period referred to in subparagraph (A), the Board of Directors may prescribe regulations that provide for separate insurance coverage for the different capacities and rights in which deposit accounts are maintained if a determination is made by the Board of Directors that such separate insurance coverage is consistent with—

(i) the purpose of protecting small depositors and limiting the undue expansion of deposit insurance coverage; and

(ii) the insurance provisions of the Federal Deposit Insurance Act.

(C) DELAYED EFFECTIVE DATE FOR REGULATIONS.—No regulation prescribed under subparagraph (B) may take effect

before the 2-year period beginning on the date of the enactment of this Act.

(5) TECHNICAL AND CONFORMING AMENDMENTS.—

(A) Section 3(m) of the Federal Deposit Insurance Act (12 U.S.C. 1813(m)) is amended by striking "(m)(1)" and all that follows through paragraph (1) and inserting the following: "(m) INSURED DEPOSIT.—

"(1) IN GENERAL.—Subject to paragraph (2), the term 'insured deposit' means the net amount due to any depositor for deposits in an insured depository institution as determined under sections 7(i) and 11(a).".

(B) Section 11(a)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(2)(A)) is amended by striking "his deposit shall be insured" and inserting "such depositor shall, for the purpose of determining the amount of insured deposits under this subsection, be deemed a depositor in such custodial capacity separate and distinct from any other officer, employee, or agent of the United States or any public unit referred to in clause (ii), (iii), (iv), or (v) and the deposit of any such depositor shall be insured in an amount not to exceed $100,000 per account".

(C) The 2d subparagraph of section 11(a)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(2)) is amended by striking "(b)" and inserting "(B)".

12 USC 1821 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) and paragraphs (2) and (3) of subsection (b) shall take effect at the end of the 2-year period beginning on the date of the enactment of this Act.

(2) APPLICATION TO TIME DEPOSITS.—

(A) CERTAIN DEPOSITS EXCLUDED.—Except with respect to the amendment referred to in paragraph (3), the amendments made by subsections (a) and (b) shall not apply to any time deposit which—

(i) was made before the date of enactment of this Act; and

(ii) matures after the end of the 2-year period referred to in paragraph (1).

(B) ROLLOVERS AND RENEWALS TREATED AS NEW DEPOSIT.—Any renewal or rollover of a time deposit described in subparagraph (A) after the date of the enactment of this Act shall be treated as a new deposit which is not described in such subparagraph.

(3) EFFECTIVE DATE FOR AMENDMENT RELATING TO CERTAIN EMPLOYEE PLANS.—

(A) Section 11(a)(1)(B) of the Federal Deposit Insurance Act (as amended by subsection (b)(1) of this section) shall take effect on the earlier of—

(i) the date of the enactment of this Act; or

(ii) January 1, 1992.

(B) Section 11(a)(3)(A) of the Federal Deposit Insurance Act (as amended by subsection (b)(2) of this section) shall take effect on the earlier of the dates described in clauses (i) and (ii) of subparagraph (A) with respect to plans described in clause (ii) of such section.

12 USC 1821 note.

(d) INFORMATIONAL STUDY.—

(1) IN GENERAL.—The Federal Deposit Insurance Corporation, in conjunction with such consultants and technical experts as the Corporation determines to be appropriate, shall conduct a study of the cost and feasibility of tracking the insured and uninsured deposits of any individual and the exposure, under any Act of Congress or any regulation of any appropriate Federal banking agency, of the Federal Government with respect to all insured depository institutions.

(2) ANALYSIS OF COSTS AND BENEFITS.—The study under paragraph (1) shall include detailed, technical analysis of the costs and benefits associated with the least expensive way to implement the system.

(3) SPECIFIC FACTORS TO BE STUDIED.—As part of the study under paragraph (1), the Corporation shall investigate, review, and evaluate—

(A) the data systems that would be required to track deposits in all insured depository institutions;

(B) the reporting burdens of such tracking on individual depository institutions;

(C) the systems which exist or which would be required to be developed to aggregate such data on an accurate basis;

(D) the implications such tracking would have for individual privacy; and

(E) the manner in which systems would be administered and enforced.

(4) FEDERAL RESERVE BOARD SURVEY.—As part of the informational study required under paragraph (1), the Board of Governors of the Federal Reserve System shall conduct, in conjunction with other Federal departments and agencies as necessary, a survey of the ownership of deposits held by individuals including the dollar amount of deposits held, the type of deposit accounts held, and the type of financial institutions in which the deposit accounts are held.

(5) ANALYSIS BY FDIC.—The results of the survey under paragraph (4) shall be provided to the Federal Deposit Insurance Corporation before the end of the 1-year period beginning on the date of the enactment of this Act for analysis and inclusion in the informational study.

(6) REPORT TO CONGRESS.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation shall submit to the Congress a report containing a detailed statement of findings made and conclusions drawn from the study conducted under this section, including such recommendations for administrative and legislative action as the Corporation determines to be appropriate.

SEC. 312. FOREIGN DEPOSITS.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by inserting after section 40 (as added by preceding provisions of this Act) the following new section:

"SEC. 41. PAYMENTS ON FOREIGN DEPOSITS PROHIBITED. 12 USC 1831r.

"(a) IN GENERAL.—Notwithstanding any other provision of law, the Corporation, the Board of Governors of the Federal Reserve System, the Resolution Trust Corporation, any other agency, department, and instrumentality of the United States, and any corporation

owned or controlled by the United States may not, directly or indirectly, make any payment or provide any assistance, guarantee, or transfer under this Act or any other provision of law in connection with any insured depository institution which would have the direct or indirect effect of satisfying, in whole or in part, any claim against the institution for obligations of the institution which would constitute deposits as defined in section 3(l) but for subparagraphs (A) and (B) of section 3(l)(5).".

"(b) EXCEPTION.—Subsection (a) shall not apply to any payment, assistance, guarantee, or transfer made or provided by the Corporation if the Board of Directors determines in writing that such action is not inconsistent with any requirement of section 13(c).

"(c) DISCOUNT WINDOW LENDING.—No provision of this section shall be construed as prohibiting any Federal Reserve bank from making advances or otherwise extending credit pursuant to the Federal Reserve Act to any insured depository institution to the extent that such advance or extension of credit is consistent with the conditions and limitations imposed under section 10B of such Act.".

SEC. 313. PENALTY FOR FALSE ASSESSMENT REPORTS.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 7(c) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) is amended by adding at the end the following new paragraph:

"(5) PENALTY FOR FAILURE TO MAKE ACCURATE CERTIFIED STATEMENT.—

"(A) FIRST TIER.—Any insured depository institution which—

"(i) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to submit the certified statement under paragraph (1) or (2) within the period of time required under paragraph (1) or (2) or submits a false or misleading certified statement; or

"(ii) submits the statement at a time which is minimally after the time required in such paragraph,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false and misleading information is not corrected. The institution shall have the burden of proving that an error was inadvertent or that a statement was inadvertently submitted late.

"(B) SECOND TIER.—Any insured depository institution which fails to submit the certified statement under paragraph (1) or (2) within the period of time required under paragraph (1) or (2) or submits a false or misleading certified statement in a manner not described in subparagraph (A) shall be subject to a penalty of not more than $20,000 for each day during which such failure continues or such false and misleading information is not corrected.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), if any insured depository institution knowingly or with reckless disregard for the accuracy of any certified statement described in paragraph (1) or (2) submits a false or misleading certified statement under paragraph (1) or (2), the Corporation may assess a penalty of not more than $1,000,000 or not more than 1 percent of the total assets of

the institution, whichever is less, per day for each day during which the failure continues or the false or misleading information in such statement is not corrected.

"(D) ASSESSMENT PROCEDURE.—Any penalty imposed under this paragraph shall be assessed and collected by the Corporation in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

"(E) HEARING.—Any insured depository institution against which any penalty is assessed under this paragraph shall be afforded an agency hearing if the institution submits a request for such hearing within 20 days after the issuance of the notice of the assessment. Section 8(h) shall apply to any proceeding under this subparagraph.".

(b) INSURED CREDIT UNIONS.—Section 202(d)(2) of the Federal Credit Union Act (12 U.S.C. 1782(d)(2)) is amended to read as follows:

"(2) PENALTY FOR FAILURE TO MAKE ACCURATE CERTIFIED STATEMENT OR TO PAY DEPOSIT OR PREMIUM.—

"(A) FIRST TIER.—Any insured credit union which—

"(i) maintains procedures reasonably adapted to avoid any inadvertent error and, unintentionally and as a result of such an error, fails to submit any certified statement under subsection (b)(1) within the period of time required or submits a false or misleading certified statement under such subsection; or

"(ii) submits the statement at a time which is minimally after the time required,

shall be subject to a penalty of not more than $2,000 for each day during which such failure continues or such false and misleading information is not corrected. The insured credit union shall have the burden of proving that an error was inadvertent or that a statement was inadvertently submitted late.

"(B) SECOND TIER.—Any insured credit union which—

"(i) fails to submit any certified statement under subsection (b)(1) within the period of time required or submits a false or misleading certified statement in a manner not described in subparagraph (A); or

"(ii) fails or refuses to pay any deposit or premium for insurance required under this title,

shall be subject to a penalty of not more than $20,000 for each day during which such failure continues, such false and misleading information is not corrected, or such deposit or premium is not paid.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), if any insured depository institution knowingly or with reckless disregard for the accuracy of any certified statement under subsection (b)(1) or submits a false or misleading certified statement under such subsection, the Corporation may assess a penalty of not more than $1,000,000 or not more than 1 percent of the total assets of the institution, whichever is less, per day for each day during which the failure continues or the false or misleading information in such statement is not corrected.

"(D) ASSESSMENT PROCEDURE.—Any penalty imposed under this paragraph shall be assessed and collected by the Corporation in the manner provided in section 206(k)(2) (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such section.

"(E) HEARING.—Any insured depository institution against which any penalty is assessed under this paragraph shall be afforded an agency hearing if the institution submits a request for such hearing within 20 days after the issuance of the notice of the assessment. Section 206(j) shall apply to any proceeding under this subparagraph.

"(F) SPECIAL RULE FOR DISPUTED PAYMENTS.—No penalty may be assessed for the failure of any insured credit union to pay any deposit or premium for insurance if—

"(i) the failure is due to a dispute between the credit union and the Board over the amount of the deposit or premium which is due from the credit union; and

"(ii) the credit union deposits security satisfactory to the Board for payment of the deposit or insurance premium upon final determination of the dispute.".

Subtitle C—Demonstration Project and Studies

12 USC 1811 note.

SEC. 321. FEASIBILITY STUDY ON AUTHORIZING INSURED AND UNINSURED DEPOSIT ACCOUNTS.

(a) STUDY REQUIRED.—The Federal Deposit Insurance Corporation shall study the feasibility of authorizing insured depository institutions to offer both insured and uninsured deposit accounts to customers.

(b) FACTORS TO CONSIDER.—In conducting the study required under subsection (a), the Corporation shall consider the following factors:

(1) The risk a 2-window deposit system would pose to the deposit insurance system.

(2) The disclosure standards which would be necessary to prevent customer confusion over the insured status of deposits and fraudulent or misleading practices with respect to such insured status.

(3) The extent to which accounting standards would have to be revised or changed.

(4) The manner in which a 2-window deposit plan could be implemented with the least disruption to the stability of, and the confidence of consumers in, the banking system.

(c) REPORT.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Corporation shall submit a report to the Congress containing the Corporation's findings and conclusions with respect to the study under subsection (a) and any recommendations for legislative or administrative action the Corporation may determine to be appropriate.

12 USC 1811 note.

SEC. 322. PRIVATE REINSURANCE STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Board of Directors of the Federal Deposit Insurance Corporation, in consultation with the Secretary of the Treasury and individuals from the private sector with expertise in private insurance, private reinsurance, depository

institutions, or economics, shall conduct a study of the feasibility of establishing a private reinsurance system.

(2) PROJECT.—The study conducted under this subsection shall include a demonstration project consisting of a simulation, by a sample of private reinsurers and insured depository institutions, of the activities required for a private reinsurance system, including—

(A) establishment of a pricing structure for risk-based premiums;

(B) formulation of insurance or reinsurance contracts; and

(C) identification and collection of information necessary to evaluate and monitor the risks in insured depository institutions.

(3) ACTUAL REINSURANCE TRANSACTIONS.—The Federal Deposit Insurance Corporation may engage in actual reinsurance transactions as part of a demonstration project conducted under paragraph (2).

(b) REPORT.—

(1) IN GENERAL.—Before the end of the 18-month period beginning on the date of the enactment of this Act, the Federal Deposit Insurance Corporation shall submit to the Congress a report on the study conducted under this section.

(2) CONTENTS.—The report under this subsection shall include—

(A) an analysis and review of the project conducted under subsection (a)(2);

(B) conclusions regarding the feasibility of a private reinsurance system;

(C) recommendations regarding whether—

(i) such a system should be restricted to depository institutions over a certain asset size;

(ii) similar systems are feasible for depository institutions or groups of depository institutions of a lesser asset size; and

(iii) public policy goals can be satisfied by such systems; and

(D) recommendations for administrative and legislative action that may be necessary to establish such systems.

TITLE IV—MISCELLANEOUS PROVISIONS

Subtitle A—Payment System Risk Reduction

SEC. 401. FINDINGS AND PURPOSE.

12 USC 4401.

The Congress finds that—

(1) many financial institutions engage daily in thousands of transactions with other financial institutions directly and through clearing organizations;

(2) the efficient processing of such transactions is essential to a smoothly functioning economy;

(3) such transactions can be processed most efficiently if, consistent with applicable contractual terms, obligations among financial institutions are netted;

(4) such netting procedures would reduce the systemic risk within the banking system and financial markets; and

(5) the effectiveness of such netting procedures can be assured only if they are recognized as valid and legally binding in the event of the closing of a financial institution participating in the netting procedures.

12 USC 4402.

SEC. 402. DEFINITIONS.

For purposes of this subtitle—

(1) BROKER OR DEALER.—The term 'broker or dealer' means—

(A) any company that is registered or licensed under Federal or State law to engage in the business of brokering, underwriting, or dealing in securities in the United States; and

(B) to the extent consistent with this title, as determined by the Board of Governors of the Federal Reserve System, any company that is an affiliate of a company described in subparagraph (A) and that is engaged in the business of entering into netting contracts.

(2) CLEARING ORGANIZATION.—The term "clearing organization" means a clearinghouse, clearing association, clearing corporation, or similar organization—

(A) that provides clearing, netting, or settlement services for its members and—

(i) in which all members other than the clearing organization itself are financial institutions or other clearing organizations; or

(ii) which is registered as a clearing agency under the Securities Exchange Act of 1934; or

(B) that performs clearing functions for a contract market designated pursuant to the Commodity Exchange Act.

(3) COVERED CLEARING OBLIGATION.—The term "covered clearing obligation" means an obligation of a member of a clearing organization to make payment to another member of a clearing organization, subject to a netting contract.

(4) COVERED CONTRACTUAL PAYMENT ENTITLEMENT.—The term "covered contractual payment entitlement" means—

(A) an entitlement of a financial institution to receive a payment, subject to a netting contract from another financial institution; and

(B) an entitlement of a member of a clearing organization to receive payment, subject to a netting contract, from another member of a clearing organization of a covered clearing obligation.

(5) COVERED CONTRACTUAL PAYMENT OBLIGATION.—The term "covered contractual payment obligation" means—

(A) an obligation of a financial institution to make payment, subject to a netting contract to another financial institution; and

(B) a covered clearing obligation.

(6) DEPOSITORY INSTITUTION.—The term "depository institution" means—

(A) a depository institution as defined in section 19(b)(1)(A) of the Federal Reserve Act (other than clause (vii));

(B) a branch or agency as defined in section 1(b) of the International Banking Act of 1978;

(C) a corporation chartered under section 25(a) of the Federal Reserve Act; or

(D) a corporation having an agreement or undertaking with the Board of Governors of the Federal Reserve System under section 25 of the Federal Reserve Act.

(7) FAILED FINANCIAL INSTITUTION.—The term "failed financial institution" means a financial institution that—

(A) fails to satisfy a covered contractual payment obligation when due;

(B) has commenced or had commenced against it insolvency, liquidation, reorganization, receivership (including the appointment of a receiver), conservatorship, or similar proceedings; or

(C) has generally ceased to meet its obligations when due.

(8) FAILED MEMBER.—The term "failed member" means any member that—

(A) fails to satisfy a covered clearing obligation when due,

(B) has commenced or had commenced against it insolvency, liquidation, reorganization, receivership (including the appointment of a receiver), conservatorship, or similar proceedings, or

(C) has generally ceased to meet its obligations when due.

(9) FINANCIAL INSTITUTION.—The term "financial institution" means a broker or dealer, a depository institution, a futures commission merchant, or any other institution as determined by the Board of Governors of the Federal Reserve System.

(10) FUTURES COMMISSION MERCHANT.—The term "futures commission merchant" means a company that is registered or licensed under Federal law to engage in the business of selling futures and options in commodities.

(11) MEMBER.—The term "member" means a member of or participant in a clearing organization, and includes the clearing organization.

(12) NET ENTITLEMENT.—The term "net entitlement" means the amount by which the covered contractual payment entitlements of a financial institution or member exceed the covered contractual payment obligations of the institution or member after netting under a netting contract.

(13) NET OBLIGATION.—The term "net obligation" means the amount by which the covered contractual payment obligations of a financial institution or member exceed the covered contractual payment entitlements of the institution or member after netting under a netting contract.

(14) NETTING CONTRACT.—

(A) IN GENERAL.—The term "netting contract"—

(i) means a contract or agreement between 2 or more financial institutions or members, that—

(I) is governed by the laws of the United States, any State, or any political subdivision of any State, and

(II) provides for netting present or future payment obligations or payment entitlements (including liquidation or close-out values relating to the obligations or entitlements) among the parties to the agreement; and

(ii) includes the rules of a clearing organization.

(B) INVALID CONTRACTS NOT INCLUDED.—The term "netting contract" does not include any contract or agreement that is invalid under or precluded by Federal commodities law.

12 USC 4403.

SEC. 403. BILATERAL NETTING.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the covered contractual payment obligations and the covered contractual payment entitlements between any 2 financial institutions shall be netted in accordance with, and subject to the conditions of, the terms of any applicable netting contract.

(b) LIMITATION ON OBLIGATION TO MAKE PAYMENT.—The only obligation, if any, of a financial institution to make payment with respect to covered contractual payment obligations to another financial institution shall be equal to its net obligation to such other financial institution, and no such obligation shall exist if there is no net obligation.

(c) LIMITATION ON RIGHT TO RECEIVE PAYMENT.—The only right, if any, of a financial institution to receive payments with respect to covered contractual payment entitlements from another financial institution shall be equal to its net entitlement with respect to such other financial institution, and no such right shall exist if there is no net entitlement.

(d) PAYMENT OF NET ENTITLEMENT OF FAILED FINANCIAL INSTITUTION.—The net entitlement of any failed financial institution, if any, shall be paid to the failed financial institution in accordance with, and subject to the conditions of, the applicable netting contract.

(e) EFFECTIVENESS NOTWITHSTANDING STATUS AS FINANCIAL INSTITUTION.—This section shall be given effect notwithstanding that a financial institution is a failed financial institution.

12 USC 4404.

SEC. 404. CLEARING ORGANIZATION NETTING.

(a) GENERAL NETTING RULE.—Notwithstanding any other provision of law, the covered contractual payment obligations and covered contractual payment entitlements of a member of a clearing organization to and from all other members of a clearing organization shall be netted in accordance with and subject to the conditions of any applicable netting contract.

(b) LIMITATION OF OBLIGATION TO MAKE PAYMENT.—The only obligation, if any, of a member of a clearing organization to make payment with respect to covered contractual payment obligations arising under a single netting contract to any other member of a clearing organization shall be equal to its net obligation arising under that netting contract, and no such obligation shall exist if there is no net obligation.

(c) LIMITATION ON RIGHT TO RECEIVE PAYMENT.—The only right, if any, of a member of a clearing organization to receive payment with respect to a covered contractual payment entitlement arising under a single netting contract from other members of a clearing organization shall be equal to its net entitlement arising under that netting contract, and no such right shall exist if there is no net entitlement.

(d) ENTITLEMENT OF FAILED MEMBERS.—The net entitlement, if any, of any failed member of a clearing organization shall be paid to the failed member in accordance with, and subject to the conditions of, the applicable netting contract.

(e) OBLIGATIONS OF FAILED MEMBERS.—The net obligation, if any, of any failed member of a clearing organization shall be determined

in accordance with, and subject to the conditions of, the applicable netting contract.

(f) LIMITATION ON CLAIMS FOR ENTITLEMENT.—A failed member of a clearing organization shall have no recognizable claim against any member of a clearing organization for any amount based on such covered contractual payment entitlements other than its net entitlement.

(g) EFFECTIVENESS NOTWITHSTANDING STATUS AS MEMBER.—This section shall be given effect notwithstanding that a member is a failed member.

SEC. 405. PREEMPTION. 12 USC 4405.

No stay, injunction, avoidance, moratorium, or similar proceeding or order, whether issued or granted by a court, administrative agency, or otherwise, shall limit or delay application of otherwise enforceable netting contracts in accordance with sections 403 and 404.

SEC. 406. RELATIONSHIP TO OTHER PAYMENTS SYSTEMS. 12 USC 4406.

This subtitle shall have no effect by implication or otherwise on the validity or legal enforceability of a netting arrangement of any payment system which is not subject to this subtitle.

SEC. 407. NATIONAL EMERGENCIES. 12 USC 4407.

The provisions of this subtitle may not be construed to limit the authority of the President under the Trading With the Enemy Act (50 U.S.C. App. 1 et seq.) or the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

Subtitle B—Right to Financial Privacy Act of 1978

SEC. 411. AMENDMENTS TO THE RIGHT TO FINANCIAL PRIVACY ACT OF 1978.

The Right to Financial Privacy Act of 1978 is amended—

(1) in section 1112(f)(2) (12 U.S.C. 3412(f)(2))—

(A) by inserting "for civil actions under section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, or for forfeiture under sections 981 or 982 of title 18, United States Code" after "purposes"; and

(B) by adding at the end the following new sentence: "No agency or department so transferring such records shall be deemed to have waived any privilege applicable to those records under law.";

(2) in section 1113(h)(1)(A) (12 U.S.C. 3413(h)(1)(A)), by striking "the financial institution in possession of such records" and inserting "a financial institution (whether or not such proceeding, investigation, examination, or inspection is also directed at a customer)";

(3) in section 1113(h)(4) (12 U.S.C. 3413(h)(4)) by striking "the financial institution in possession of such records" and inserting "a financial institution (whether or not such proceeding, investigation, examination, or inspection is also directed at a customer)"; and

(4) in section 1113(l) (12 U.S.C. 3413(l)), by adding after paragraph (2) the following new sentence:

"No supervisory agency which transfers any such record under this subsection shall be deemed to have waived any privilege applicable to that record under law.".

Subtitle C—Final Settlement Payment Procedure

SEC. 416. FINAL SETTLEMENT PAYMENT PROCEDURE.

Section 11(d)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended to read as follows:

"(4) RULEMAKING AUTHORITY RELATING TO DETERMINATION OF CLAIMS.—

"(A) IN GENERAL.—The Corporation may prescribe regulations regarding the allowance or disallowance of claims by the receiver and providing for administrative determinations of claims and review of such determination.

"(B) FINAL SETTLEMENT PAYMENT PROCEDURE.—

"(i) IN GENERAL.—In the handling of receiverships of insured depository institutions, to maintain essential liquidity and to prevent financial disruption, the Corporation may, after the declaration of an institution's insolvency, settle all uninsured and unsecured claims on the receivership with a final settlement payment which shall constitute full payment and disposition of the Corporation's obligations to such claimants.

"(ii) FINAL SETTLEMENT PAYMENT.—For purposes of clause (i), a final settlement payment shall be payment of an amount equal to the product of the final settlement payment rate and the amount of the uninsured and unsecured claim on the receivership; and

"(iii) FINAL SETTLEMENT PAYMENT RATE.—For purposes of clause (ii), the final settlement payment rate shall be a percentage rate reflecting an average of the Corporation's receivership recovery experience, determined by the Corporation in such a way that over such time period as the Corporation may deem appropriate, the Corporation in total will receive no more or less than it would have received in total as a general creditor standing in the place of insured depositors in each specific receivership.

"(iv) CORPORATION AUTHORITY.—The Corporation may undertake such supervisory actions and promulgate such regulations as may be necessary to assure that the requirements of this section can be implemented with respect to each insured depository institution in the event of its insolvency.".

Subtitle D—Miscellaneous Committees, Studies, and Reports

SEC. 421. AMENDMENTS RELATING TO FEDERAL RESERVE BOARD RESERVE REQUIREMENTS.

(a) STUDY ON PAYMENT OF IMPUTED EARNINGS ON STERILE RESERVES TO INSURANCE FUNDS.—The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the National Credit Union Administration shall jointly—

(1) conduct a study on the feasibility of assessing Federal Reserve banks an amount equal to the imputed earnings on reserves held at such banks by insured depository institutions under section 19(b) of the Federal Reserve Act; and

(2) assess the likely beneficial and adverse effects such an assessment would have on the Federal reserve banks, the deposit insurance funds, the insured depository institutions, and the Federal payment system, including a comparison of the effects on each such subject of the study.

(b) REPORT TO CONGRESS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, and the National Credit Union Administration shall jointly submit a report to the Congress on the findings and conclusions made with respect to the study under subsection (a), together with any recommendation for any legislative or administrative action which such agencies may determine to be appropriate.

(c) REPORT OF DISSENTING VIEWS.—Any agency described in subsections (a) and (b) which does not concur in the findings, conclusions, or recommendations referred to in subsection (b) or has additional findings, conclusions, or recommendations which were not included in the report may submit a report to the Congress describing—

(1) the reasons why the agency does not concur in the findings, conclusions, or recommendations referred to in subsection (b); and

(2) such additional findings, conclusions, or recommendations.

SEC. 422. PERMANENT AUTHORIZATION OF CREDIT STANDARDS BOARD.

(a) IN GENERAL.—Section 1205 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1818 note) is amended by adding at the end the following new subsection:

"(f) FEDERAL ADVISORY COMMITTEE ACT DOES NOT APPLY.—The Federal Advisory Committee Act shall not apply with respect to the Committee.".

(b) CHAIRPERSON.—Section 1205(b)(3) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1818 note) is amended to read as follows:

"(3) CHAIRPERSON.—The Chairperson of the Committee shall be designated by the President from among the members appointed under paragraph (1)(F).". President.

Subtitle E—Utilization of Private Sector

SEC. 426. UTILIZATION OF PRIVATE SECTOR.

Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended by adding at the end the following new subparagraph:

"(K) UTILIZATION OF PRIVATE SECTOR.—In carrying out its responsibilities in the management and disposition of assets from insured depository institutions, as conservator, receiver, or in its corporate capacity, the Corporation shall utilize the services of private persons, including real estate and loan portfolio asset management, property management, auction marketing, and brokerage services, if such services are available in the private sector and the Corporation determines utilization of such services is practicable, efficient, and cost effective.".

SEC. 427. REPORTING.

Section 17 of the Federal Deposit Insurance Act (12 U.S.C. 1827) is amended by adding at the end the following new subsection:

"(h) ADDITIONAL REPORTS.—

"(1) IN GENERAL.—In addition to the reports required under subsections (a), (b), and (c), the Corporation shall submit to Congress not later than April 30 and October 31 of each year, a semiannual report on the activities and efforts of the Corporation for the 6-month period ending on the last day of the month prior to the month in which such report is required to be submitted.

"(2) CONTENTS OF REPORT.—Each semiannual report required under this subsection shall include the following information with respect to the Corporation's assets and liabilities and the assets and liabilities of institutions for which the Corporation serves as a conservator or receiver:

"(A) A statement of the total book value of all assets held or managed by the Corporation at the beginning and end of the reporting period.

"(B) A statement of the total book value of such assets which are under contract to be managed by private persons and entities at the beginning and end of the reporting period.

"(C) The number of employees of the Corporation at the beginning and end of the reporting period.

"(D) A statement of the total amount expended on private contractors for the management of such assets.

"(E) A statement of the efforts of the Corporation to maximize the efficient utilization of the resources of the private sector during the reporting period and in future reporting periods and a description of the policies and procedures adopted to ensure adequate competition and fair and consistent treatment of qualified third parties seeking to provide services to the Corporation.".

Subtitle F—Emergency Assistance for Rhode Island

SEC. 431. EMERGENCY LOAN GUARANTEE.

(a) IN GENERAL.—

(1) PROVISION FOR GUARANTEE.—Subject to the terms and conditions established by or under this subsection, the Secretary of the Treasury shall guarantee the repayment of any amount not to exceed $180,000,000 borrowed by the State of Rhode Island and Providence Plantations (hereafter in this section referred to as the "State of Rhode Island"), or the Depositors Economic Protection Corporation established by such State, to expedite the repayment of depositors at State-chartered banks and credit unions in receivership in such State and to facilitate the resolution of such receiverships.

(2) LOAN COLLATERAL REQUIRED AS CONDITION FOR GUARANTEE.—The Secretary of the Treasury may not guarantee the repayment of any amount under paragraph (1) unless the amount of any loan for which the guarantee is sought is fully secured as follows:

(A) A first lien on assets held or controlled by the Depositors Economic Protection Corporation and the proceeds from the sale of such assets, are irrevocably pledged to the extent necessary to provide collateral for the guarantee.

(B) If the liens and assets described in subparagraph (A) are insufficient to fully secure the guarantee, then a first lien on any assets held or controlled by the State of Rhode Island or any instrumentality of the State of Rhode Island and the proceeds from the sale of such assets, are irrevocably pledged to the extent necessary to provide collateral for the guarantee.

(C) If the liens and assets described in subparagraphs (A) and (B) are insufficient to fully secure the guarantee, then any revenue from the State sales tax which is dedicated to the Depositors Economic Protection Corporation under the law of the State of Rhode Island in excess of the amount necessary to pay principal and interest on any obligation of the State or the Corporation issued before the date of the loan is irrevocably dedicated to the extent necessary to provide collateral for the guarantee.

(3) GUARANTEE FEES.—The Secretary may assess and collect with respect to loans guaranteed under this subsection an annual guarantee fee computed daily at a rate which may not exceed one-half of 1 percent of the outstanding principal amount of the guaranteed loan.

(4) PLEDGE OF CERTAIN INCOME FOR REPAYMENT.—The Secretary may not guarantee under this section the repayment of any loan proposed to be made to the Depositors Economic Protection Corporation unless, for each fiscal year of the Depositors Economic Protection Corporation, all rents, issues, profits, products, proceeds, revenues, and other income (including insurance proceeds and condemnation awards) received by the Corporation from, or attributable to, the assets pledged to the United States in accordance with this subsection, in excess of the amount necessary to pay the interest, or principal and

interest on any loan to the Corporation guaranteed under paragraph (1) that is payable in such fiscal year are irrevocably pledged to be deposited into a sinking fund or defeasance fund maintained by the Corporation and are irrevocably pledged and dedicated to the repayment of the principal of such guaranteed loan in the inverse order of the maturity of such principal installments.

(5) INVESTMENT GRADE RATING.—The Secretary may not guarantee under this section the repayment of any loan proposed to be made to the State of Rhode Island or the Depositors Economic Protection Corporation unless each such proposed loan has received a rating (for purposes of which the collateral securing the guarantee is considered to be securing the loan) of—

(A) the highest investment grade from a nationally recognized statistical rating organization;

(B) not less than 1 less than the investment grade rating from 2 nationally recognized statistical rating organizations; or

(C) not less than 2 less than the highest investment grade from 2 nationally recognized statistical rating organizations to the extent that—

(i) a rating of not less than 1 less than the highest investment grade rating from 2 nationally recognized statistical rating organization has not been achieved through the use of all of the collateral listed in subsection (a)(2)(A) and the available collateral under subparagraph (B) or (C) of subsection (a)(2) at the time of the State of Rhode Island's request for the loan guarantee; and

(ii) representatives of the State of Rhode Island and the Secretary are able to agree upon the lesser grade rating based on changes negotiated to other terms of this subtitle, including the purchase of bond insurance.

(6) TERMS.—

(A) IN GENERAL.—The guarantee provided for in this subsection shall be with respect to a loan which—

(i) is made not more than 1 year after the date of enactment of this Act;

(ii) will mature not later than 8 years after the date of such loan; and

(iii) is scheduled to be repaid in equal installments of principal during the last 4 years of the repayment term of such loan.

(B) AUTHORITY TO VARY TIME PERIODS.—The Secretary and the duly authorized representative of the State of Rhode Island may, by mutual agreement, modify any durational requirement specified in subparagraph (A).

(7) ADDITIONAL TERMS AND CONDITIONS.—Except as otherwise provided in this subsection, the terms and conditions of any loan guarantee under this section shall be established by mutual agreement of the Secretary of the Treasury and the duly authorized representative of the State of Rhode Island.

(b) APPROPRIATION OF AMOUNTS.—There are hereby appropriated to the Secretary of the Treasury such sums as may be necessary for any fiscal year to meet the obligation of the United States under subsection (a)(1).

Subtitle G—Qualified Thrift Lender Test Improvements

Qualified Thrift Lender Reform Act of 1991.

SEC. 436. SHORT TITLE.

12 USC 1461 note.

This subtitle may be cited as the "Qualified Thrift Lender Reform Act of 1991".

SEC. 437. ADJUSTMENT OF COMPLIANCE PERIODS FOR PURPOSES OF QUALIFIED THRIFT LENDER TEST.

Section 10(m)(1)(B) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(1)(B)) (as in effect on July 1, 1991) is amended to read as follows:

"(B) the savings association's qualified thrift investments continue to equal or exceed 65 percent of the savings association's portfolio assets on a monthly average basis in 9 out of every 12 months.".

SEC. 438. INCREASE IN AMOUNT OF LIQUID ASSETS EXCLUDABLE FROM PORTFOLIO ASSETS.

Section 10(m)(4)(B)(iii) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(B)(iii)) (as in effect on July 1, 1991) is amended by striking "10 percent" and inserting "20 percent".

SEC. 439. ADDITIONAL INVESTMENTS INCLUDED IN DEFINITION OF QUALIFIED THRIFT ASSETS.

Section 10(m)(4)(C) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)) (as in effect on July 1, 1991) is amended—

(1) by adding at the end of clause (ii) the following new subclause:

"(VI) Shares of stock issued by any Federal home loan bank."; and

(2) by adding at the end of clause (iii) the following new subclause:

"(VII) Shares of stock issued by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.".

SEC. 440. PRUDENT DIVERSIFICATION OF ASSETS.

(a) IN GENERAL.—Section 10(m)(4)(C)(iii)(VI) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(iii)(VI)) (as in effect on July 1, 1991) is amended by striking "5 percent" and inserting "10 percent".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 10(m)(4)(C)(iv) of the Home Owners' Loan Act (12 U.S.C. 1467a(m)(4)(C)(iv)) (as in effect on July 1, 1991) is amended by striking "15 percent" and inserting "20 percent".

SEC. 441. CONSUMER LENDING BY FEDERAL SAVINGS ASSOCIATIONS.

(a) PERCENTAGE ADJUSTMENT.—Section 5(c)(2)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(D)) is amended in the second sentence by striking "30 percent" and inserting "35 percent".

(b) LOANS TO ORIGINAL OBLIGOR.—Section 5(c)(2)(B) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(B)) is amended by inserting before the period at the end the following: ", provided however, that no amount in excess of 30 percent of the assets may be invested in loans made directly by the association to the original obligor, and

the association does not pay finder, referral, or other fees, directly or indirectly, to a third party.".

Subtitle H—Prohibition on Entering Secrecy Agreements and Protective Orders

SEC. 446. PROHIBITION ON ENTERING INTO SECRECY AGREEMENTS AND PROTECTIVE ORDERS.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

"(s) PROHIBITION ON ENTERING SECRECY AGREEMENTS AND PROTECTIVE ORDERS.—The Corporation may not enter into any agreement or approve any protective order which prohibits the Corporation from disclosing the terms of any settlement of an administrative or other action for damages or restitution brought by the Corporation in its capacity as conservator or receiver for an insured depository institution.".

Subtitle I—Bank and Thrift Employee Provisions

12 USC 1821 note.

SEC. 451. CONTINUATION OF HEALTH PLAN COVERAGE IN CASES OF FAILED FINANCIAL INSTITUTIONS.

(a) CONTINUATION COVERAGE.—The Federal Deposit Insurance Corporation—

(1) shall, in its capacity as a successor of a failed depository institution (whether acting directly or through any bridge bank), have the same obligation to provide a group health plan meeting the requirements of section 602 of the Employee Retirement Income Security Act of 1974 (relating to continuation coverage requirements of group health plans) with respect to former employees of such institution as such institution would have had but for its failure, and

(2) shall require that any successor described in subsection (b)(1)(B)(iii) provide a group health plan with respect to former employees of such institution in the same manner as the failed depository institution would have been required to provide but for its failure.

(b) DEFINITIONS.—For purposes of this section—

(1) SUCCESSOR.—An entity is a successor of a failed depository institution during any period if—

(A) such entity holds substantially all of the assets or liabilities of such institution, and

(B) such entity is—

(i) the Federal Deposit Insurance Corporation,

(ii) any bridge bank, or

(iii) an entity that acquires such assets or liabilities from the Federal Deposit Insurance Corporation or a bridge bank.

(2) FAILED DEPOSITORY INSTITUTION.—The term "failed depository institution" means any depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act) for which a receiver has been appointed.

(3) BRIDGE BANK.—The term "bridge bank" has the meaning given such term by section 11(i) of the Federal Deposit Insurance Act.

(c) NO PREMIUM COSTS IMPOSED ON FDIC.—Subsection (a) shall not be construed as requiring the Federal Deposit Insurance Corporation to incur, by reason of this section, any obligation for any premium under any group health plan referred to in such subsection.

(d) EFFECTIVE DATE.—This section shall apply to plan years beginning on or after the date of the enactment of this Act, regardless of whether the qualifying event under section 603 of the Employee Retirement Income Security Act of 1974 occurred before, on, or after such date.

Subtitle J—Sense of the Congress Regarding the Credit Crisis

SEC. 456. CREDIT CRUNCH.

(a) FINDINGS.—The Congress finds that—

(1) during the past year and a half a credit crunch of crisis proportions has taken hold of the economy and grown increasingly severe, particularly for real estate;

(2) to date the credit crisis has shown no sign of improvement with its effects being felt broadly throughout the Nation as business failures soar, financial institutions weaken, real estate values decline, and State and local property tax bases further erode;

(3) approximately $200,000,000,000 of the nearly $400,000,000,000 in commercial real estate loans now held by commercial banks are coming due within the next 2 years;

(4) banks for a variety of reasons, are reluctant to renew these maturing real estate loans;

(5) both pension funds in the United States, with assets of nearly $2,000,000,000,000, and a stronger and more active secondary market for commercial real estate debt and equity could play a more significant role in providing liquidity and credit to the real estate and banking sectors of the economy;

(6) many regulatory practices encourage banks to reduce their real estate lending without regard to long-term historical risk; and

(7) the stability of real estate has suffered during the past decade first from tax rules that in 1981 stimulated excessive investment in real estate, and then in 1986 when rules were adopted that discourage capital investment in real estate, artificially eroding real estate values.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) immediate and carefully-coordinated action should be taken by the Congress and the President to arrest the credit crisis referred to in subsection (a) and provide a healthy and efficient marketplace that works for owners, lenders, and investors; and

(2) that efforts should be undertaken to explore measures that—

(A) modernize and simplify the rules that apply to pension investment in real estate to remove unnecessary barriers to pension funds seeking to invest in real estate;

(B) strengthen the secondary market for commercial real estate debt and equity by removing arbitrary obstacles to private forms of credit enhancement;

(C) restore balance to the regulatory environment by considering the impact of risk-based capital standards on commercial, multifamily and single-family real estate; ending mark-to-market, liquidation-based, appraisals; encouraging loan renewals; and, fully communicating the supervisory policy to bank examiners in the field; and

(D) rationalize the tax system for real estate owners and operators by modifying the passive loss rules and encouraging loan restructures.

Subtitle K—Aquisition of Insolvent Savings Associations

SEC. 461. ACQUISITION OF INSOLVENT SAVINGS ASSOCIATIONS.

Section 4(i) of the Bank Holding Company Act (12 U.S.C. 1843(i)) is amended by adding at the end the following new paragraph:

"(3) ACQUISITION OF INSOLVENT SAVINGS ASSOCIATIONS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this Act, any qualified savings association which became a federally chartered stock company in December of 1986 and which is acquired by any bank holding company without Federal financial assistance after June 1, 1991, and before March 1, 1992, and any subsidiary of any such association, may after such acquisition continue to engage within the home State of the qualified savings association in insurance agency activities in which any Federal savings association (or any subsidiary thereof) may engage in accordance with the Home Owners' Loan Act and regulations pursuant to such Act if the qualified savings association or subsidiary thereof was continuously engaged in such activity from June 1, 1991, to the date of the acquisition.

"(B) DEFINITION OF QUALIFIED SAVINGS ASSOCIATION.—For purposes of this paragraph, the term 'qualified savings association' means any savings association that—

"(i) was chartered or organized as a savings association before June 1, 1991;

"(ii) had, immediately before the acquisition of such association by the bank holding company referred to in subparagraph (A), negative tangible capital and total insured deposits in excess of $3,000,000,000; and

"(iii) will meet all applicable regulatory capital requirements as a result of such acquisition.".

Subtitle L—Creditability of Service

SEC. 466. CREDITABILITY OF SERVICE.

(a) CHAPTER 83.—Section 8332 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(n) Any employee who—

"(1) served in a position in which the employee was excluded from coverage under this subchapter because the employee was covered under a retirement system established under section 10 of the Federal Reserve Act; and

"(2) transferred without a break in service to a position to which the employee was appointed by the President, with the advice and consent of the Senate, and in which position the employee is subject to this subchapter,

shall be treated for all purposes of this subchapter as if any service that would have been creditable under the retirement system established under section 10 of the Federal Reserve Act was service performed while subject to this subchapter if any employee and employer deductions, contributions or rights with respect to the employee's service are transferred from such retirement system to the Fund.".

(b) CHAPTER 84.—Section 8411 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(g) Any employee who—

"(1) served in a position in which the employee was excluded from coverage under this subchapter because the employee was covered under a retirement system established under section 10 of the Federal Reserve Act; and

"(2) transferred without a break in service to a position to which the employee was appointed by the President, with the advice and consent of the Senate, and in which position the employee is subject to this subchapter,

shall be treated for all purposes of this subchapter as if any service that would have been creditable under the retirement system established under section 10 of the Federal Reserve Act was service performed while subject to this subchapter if any employee and employer deductions, contributions or rights with respect to the employee's service are transferred from such retirement system to the Fund.".

(c) APPLICABILITY.—The amendment made by this section shall apply with respect to any individual who transfers to a position in which he or she is subject to subchapter III of chapter 83 or chapter 84 of title 5, United States Code, on or after October 1, 1991. 5 USC 8332 note.

Subtitle M—Other Miscellaneous Provisions

SEC. 471. PROVIDING SERVICES TO INSURED DEPOSITORY INSTITUTIONS.

Section 21A of the Home Owners' Loan Act (12 U.S.C. 1441a) is amended by adding at the end the following:

"(q) CONTINUATION OF OBLIGATION TO PROVIDE SERVICES.—No person obligated to provide services to an insured depository institution at the time the Resolution Trust Corporation is appointed conservator or receiver for the institution shall fail to provide those services to any person to whom the right to receive those services was transferred by the Resolution Trust Corporation after August 9, 1989, unless the refusal is based on the transferee's failure to comply with any material term or condition of the original obligation. This subsection does not limit any authority of the Resolution Trust Corporation as conservator or receiver under section 11(e) of the Federal Deposit Insurance Act.".

SEC. 472. REAL ESTATE APPRAISALS.

(a) CERTIFICATION AND LICENSING REQUIREMENTS.—Section 1116 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3345) is amended by adding at the end the following new subsection:

"(e) AUTHORITY OF THE APPRAISAL SUBCOMMITTEE.—The Appraisal Subcommittee shall not set qualifications or experience requirements for the States in licensing real estate appraisers, including a de minimus standard. Recommendations of the Subcommittee shall be nonbinding on the States.".

(b) USE OF STATE CERTIFIED AND STATE LICENSED APPRAISERS.—

(1) EFFECTIVE DATE FOR USE.—Section 1119(a)(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(a)(1)) is amended by striking "July 1, 1991" and inserting "December 31, 1992".

(2) EXTENSION OF EFFECTIVE DATE.—Section 1119(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3348(b)) is amended—

(A) in the first sentence, by striking "leading to inordinate delays" and inserting ", or in any geographical political subdivision of a State, leading to significant delays"; and

(B) in the second sentence, by striking "inordinate" and inserting "significant".

(c) OMB STUDY OF DE MINIMUS STANDARDS.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Director of the Office of Management and Budget shall conduct a study of whether there is a need to establish de minimus levels for commercial real estate.

SEC. 473. EMERGENCY LIQUIDITY.

Section 13 of the Federal Reserve Act (12 U.S.C. 343) is amended in the third paragraph by striking "of the kinds and maturities made eligible for discount for member banks under other provisions of this Act".

SEC. 474. DISCRIMINATION AGAINST REORGANIZED DEBTORS.

Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)) is amended by adding at the end the following new paragraph:

"(9) A Federal banking agency may not, by regulation or otherwise, designate, or require an insured institution or an affiliate to designate, a corporation as highly leveraged or a transaction with a corporation as a highly leveraged transaction solely because such corporation is or has been a debtor or bankrupt under title 11, United States Code, if, after confirmation of a plan of reorganization, such corporation would not otherwise be highly leveraged.".

12 USC 1828 note.

SEC. 475. PURCHASED MORTGAGE SERVICING RIGHTS.

(a) IN GENERAL.—Notwithstanding section 5(t)(4) of the Home Owners' Loan Act, each appropriate Federal banking agency shall determine, with respect to insured depository institutions for which it is the appropriate Federal regulator, the amount of readily marketable purchased mortgage servicing rights that may be included in calculating such institution's tangible capital, risk-based capital, or leverage limit, if—

(1) such servicing rights are valued at not more than 90 percent of their fair market value; and

(2) the fair market value of such servicing rights is determined not less often than quarterly.

(b) DEFINITION.—For purposes of this section, the terms "appropriate Federal banking agency" and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

(c) EFFECTIVE DATE.—The amendments made by this Act shall take effect at the end of the 60-day period beginning on the date of the enactment of this Act.

SEC. 476. LIMITATION ON SECURITIES PRIVATE RIGHTS OF ACTION.

The Securities Exchange Act of 1934 is amended by inserting after section 27 (15 U.S.C. 78aa) the following new section:

"SPECIAL PROVISION RELATING TO STATUTE OF LIMITATIONS ON PRIVATE CAUSES OF ACTION

"SEC. 27A. (a) EFFECT ON PENDING CAUSES OF ACTION.—The limitation period for any private civil action implied under section 10(b) of this Act that was commenced on or before June 19, 1991, shall be the limitation period provided by the laws applicable in the jurisdiction, including principles of retroactivity, as such laws existed on June 19, 1991. 15 USC 78aa-1.

"(b) EFFECT ON DISMISSED CAUSES OF ACTION.—Any private civil action implied under section 10(b) of this Act that was commenced on or before June 19, 1991—

"(1) which was dismissed as time barred subsequent to June 19, 1991, and

"(2) which would have been timely filed under the limitation period provided by the laws applicable in the jurisdiction, including principles of retroactivity, as such laws existed on June 19, 1991,

shall be reinstated on motion by the plaintiff not later than 60 days after the date of enactment of this section.".

SEC. 477. MODIFIED SMALL BUSINESS LENDING DISCLOSURE. 12 USC 251.

The Federal Reserve Board shall collect and publish, on an annual basis, information on the availability of credit to small businesses. The information shall, to the extent practicable—

(1) include information on commercial loans to small businesses, agricultural loans to small farms, and loans to minority-owned small businesses;

(2) be given for categories of small businesses determined by annual sales and for small businesses in existence for less than 1 year; and

(3) be given for each geographic region of the United States.

In collecting the information, the Federal Reserve Board shall take into consideration the need to minimize reporting costs, if any, on financial institutions.

New York.

SEC. 478. SPECIAL INSURED DEPOSITS.

For purposes of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), the deposits of the Freedom National Bank of New York and the deposits of Community National Bank and Trust Company of New York that—

(1) were deposited by a charitable organization as such term is defined by New York State law, or by a religious organization; and

(2) were deposits of such bank on the date of its closure by the Office of the Comptroller of the Currency,

shall be fully insured notwithstanding any other provisions of the Federal Deposit Insurance Act.

Subtitle N—Severability

12 USC 1811 note.

SEC. 481. SEVERABILITY.

If any provision of this Act, or any application of any provision of this Act to any person or circumstance, is held invalid, the remainder of the Act, and the application of any remaining provision of the Act to any other person or circumstance, shall not be affected by such holding.

TITLE V—DEPOSITORY INSTITUTION CONVERSIONS

SEC. 501. MERGERS AND ACQUISITIONS OF INSURED DEPOSITORY INSTITUTIONS DURING CONVERSION MORATORIUM.

(a) IN GENERAL.—Section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)) is amended to read as follows:

"(3) OPTIONAL CONVERSIONS SUBJECT TO SPECIAL RULES ON DEPOSIT INSURANCE PAYMENTS.—

"(A) CONVERSIONS ALLOWED.—

"(i) IN GENERAL.—Notwithstanding paragraph (2)(A) and subject to the requirements of this paragraph, any insured depository institution may participate in a transaction described in clause (ii), (iii), or (iv) of paragraph (2)(B) with the prior written approval of the responsible agency under section 18(c)(2).

"(ii) HOLDING COMPANY SUBSIDIARIES.—If, in connection with any transaction referred to in clause (i), the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company, the prior written approval of the Board shall be required for such transaction in addition to the approval of any agency referred to in clause (i).

"(B) ASSESSMENTS ON DEPOSITS ATTRIBUTABLE TO FORMER DEPOSITORY INSTITUTION.—

"(i) ASSESSMENTS BY SAIF.—In the case of any acquiring, assuming, or resulting depository institution which is a Bank Insurance Fund member, that portion of the average assessment base of such member for any semiannual period which is equal to the adjusted attributable deposit amount (determined under subparagraph (C) with respect to the transaction) shall—

"(I) be subject to assessment at the assessment rate applicable under section 7 for Savings Association Insurance Fund members;

"(II) not be taken into account for purposes of any assessment under section 7 for Bank Insurance Fund members; and

"(III) be treated as deposits which are insured by the Savings Association Insurance Fund.

"(ii) ASSESSMENTS BY BIF.—In the case of any acquiring, assuming, or resulting depository institution which is a Savings Association Insurance Fund member, that portion of the average assessment base of such member for any semiannual period which is equal to the adjusted attributable deposit amount (determined under subparagraph (C) with respect to the transaction) shall—

"(I) be subject to assessment at the assessment rate applicable under section 7 for Bank Insurance Fund members;

"(II) not be taken into account for purposes of any assessment under section 7 for Savings Association Insurance Fund members; and

"(III) be treated as deposits which are insured by the Bank Insurance Fund.

"(C) DETERMINATION OF ADJUSTED ATTRIBUTABLE DEPOSIT AMOUNT.—The adjusted attributable deposit amount which shall be taken into account for purposes of determining the amount of the assessment under subparagraph (B) for any semiannual period by any acquiring, assuming, or resulting depository institution in connection with a transaction under subparagraph (A) is the amount which is equal to the sum of—

"(i) the amount of any deposits acquired by the institution in connection with the transaction (as determined at the time of such transaction);

"(ii) the total of the amounts determined under clause (iii) for semiannual periods preceding the semiannual period for which the determination is being made under this subparagraph; and

"(iii) the amount by which the sum of the amounts described in clauses (i) and (ii) would have increased during the preceding semiannual period (other than any semiannual period beginning before the date of such transaction) if such increase occurred at a rate equal to the annual rate of growth of deposits of the acquiring, assuming, or resulting depository institution minus the amount of any deposits acquired through the acquisition, in whole or in part, of another insured depository institution.

"(D) DEPOSIT OF ASSESSMENT.—That portion of any assessment under section 7 which—

"(i) is determined in accordance with subparagraph (B)(i) shall be deposited in the Savings Association Insurance Fund; and

"(ii) is determined in accordance with subparagraph (B)(ii) shall be deposited in the Bank Insurance Fund.

"(E) CONDITIONS FOR APPROVAL, GENERALLY.—

"(i) FACTORS TO BE CONSIDERED; APPROVAL PROCESS.—In reviewing any application for a proposed transaction under subparagraph (A), the responsible agency (and, in the event the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company, the Board) shall follow the procedures and consider the factors set forth in section 18(c).

"(ii) INFORMATION REQUIRED.—An application to engage in any transaction under this paragraph shall contain such information relating to the factors to be considered for approval as the responsible agency or Board may require, by regulation or by specific request, in connection with any particular application.

"(iii) NO TRANSFER OF DEPOSIT INSURANCE PERMITTED.—This paragraph shall not be construed as authorizing transactions which result in the transfer of any insured depository institution's Federal deposit insurance from 1 Federal deposit insurance fund to the other Federal deposit insurance fund.

"(iv) MINIMUM CAPITAL.—The responsible agency, and the appropriate Federal banking agency for any depository institution holding company, shall disapprove any application for any transaction under this paragraph unless each such agency determines that the acquiring, assuming, or resulting depository institution, and any depository institution holding company which controls such institution, will meet all applicable capital requirements upon consummation of the transaction.

"(F) CERTAIN INTERSTATE TRANSACTIONS.—The Board may not approve any transaction under subparagraph (A) in which the acquiring, assuming, or resulting depository institution is a Bank Insurance Fund member which is a subsidiary of a bank holding company unless the Board determines that the transaction would comply with the requirements of section 3(d) of the Bank Holding Company Act of 1956 if, at the time of such transaction, the Savings Association Insurance Fund member involved in such transaction was a State bank that the bank holding company was applying to acquire.

"(G) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(i) IN GENERAL.—Any application by a State nonmember insured bank to acquire another insured depository institution that is required to be filed with the Corporation by subparagraph (A) or any other applicable law or regulation shall be approved or disapproved in writing by the Corporation before the end of the 60-day period beginning on the date such application is filed with the Corporation.

"(ii) EXTENSIONS OF PERIOD.—The period for approval or disapproval referred to in clause (i) may be extended for an additional 30-day period if the Corporation determines that—

"(I) an applicant has not furnished all of the information required to be submitted; or

"(II) in the Corporation's judgment, any material information submitted is substantially inaccurate or incomplete.

"(H) ALLOCATION OF COSTS IN EVENT OF DEFAULT.—If any acquiring, assuming, or resulting depository institution is in default or danger of default at any time before this paragraph ceases to apply, any loss incurred by the Corporation shall be allocated between the Bank Insurance Fund and the Savings Association Insurance Fund, in amounts reflecting the amount of insured deposits of such acquiring, assuming, or resulting depository institution assessed by the Bank Insurance Fund and the Savings Association Insurance Fund, respectively, under subparagraph (B).

"(I) SUBSEQUENT APPROVAL OF CONVERSION TRANSACTION.—This paragraph shall cease to apply if—

"(i) after the end of the 5-year period referred to in paragraph (2)(A), the Corporation approves an application by any acquiring, assuming, or resulting depository institution to treat the transaction described in subparagraph (A) as a conversion transaction; and

"(ii) the acquiring, assuming, or resulting depository institution pays the amount of any exit and entrance fee assessed by the Corporation under subparagraph (E) of paragraph (2) with respect to such transaction.

"(J) ACQUIRING, ASSUMING, OR RESULTING DEPOSITORY INSTITUTION DEFINED.—For purposes of this paragraph, the term 'acquiring, assuming, or resulting depository institution' means any insured depository institution which—

"(i) results from any transaction described in paragraph (2)(B)(ii) and approved under this paragraph;

"(ii) in connection with a transaction described in paragraph (2)(B)(iii) and approved under this paragraph, assumes any liability to pay deposits of another insured depository institution; or

"(iii) in connection with a transaction described in paragraph (2)(B)(iv) and approved under this paragraph, acquires assets from any insured depository institution in consideration of the assumption of liability for any deposits of such institution.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) to section 5(d)(3)(C) of the Federal Deposit Insurance Act shall apply with respect to semiannual periods beginning after the date of the enactment of this Act. 12 USC 1815 note.

(c) TRANSITION RULE FOR SAVINGS ASSOCIATIONS ACQUIRING BANKS.—Section 5(c) of the Home Owners' Loan Act (12 U.S.C. 1464(c)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) TRANSITION RULE FOR SAVINGS ASSOCIATIONS ACQUIRING BANKS.—

"(A) IN GENERAL.—If, under section 5(d)(3) of the Federal Deposit Insurance Act, a savings association acquires all or substantially all of the assets of a bank that is a member of the Bank Insurance Fund, the Director may permit the

savings association to retain any such asset during the 2-year period beginning on the date of the acquisition.

"(B) EXTENSION.—The Director may extend the 2-year period described in subparagraph (A) for not more than 1 year at a time and not more than 2 years in the aggregate, if the Director determines that the extension is consistent with the purposes of this Act.".

SEC. 502. MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.

(a) FEDERAL SAVINGS ASSOCIATIONS.—Section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a) is amended by adding at the end the following new subsection:

"(t) MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED.—

"(1) IN GENERAL.—Subject to sections 5(d)(3) and 18(c) of the Federal Deposit Insurance Act and all other applicable laws, any Federal savings association may acquire or be acquired by any insured depository institution.

"(2) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(A) IN GENERAL.—Any application by a savings association to acquire or be acquired by another insured depository institution which is required to be filed with the Director under section 5(d)(3) of the Federal Deposit Insurance Act or any other applicable law or regulation shall be approved or disapproved in writing by the Director before the end of the 60-day period beginning on the date such application is filed with the agency.

"(B) EXTENSION OF PERIOD.—The period for approval or disapproval referred to in subparagraph (A) may be extended for an additional 30-day period if the Director determines that—

"(i) an applicant has not furnished all of the information required to be submitted; or

"(ii) in the Director's judgment, any material information submitted is substantially inaccurate or incomplete.

"(3) ACQUIRE DEFINED.—For purposes of this subsection, the term 'acquire' means to acquire, directly or indirectly, ownership or control through a merger or consolidation or an acquisition of assets or assumption of liabilities, provided that following such merger, consolidation, or acquisition, an acquiring insured depository institution may not own the shares of the acquired insured depository institution.

"(4) REGULATIONS.—

"(A) REQUIRED.—The Director shall prescribe such regulations as may be necessary to carry out paragraph (1).

"(B) EFFECTIVE DATE.—The regulations required under subparagraph (A) shall—

"(i) be prescribed in final form before the end of the 90-day period beginning on the date of the enactment of this subsection; and

"(ii) take effect before the end of the 120-day period beginning on such date.

"(5) LIMITATION.—No provision of this section shall be construed to authorize a national bank or any subsidiary thereof to engage in any activity not otherwise authorized under the

National Bank Act or any other law governing the powers of a national bank.".

(b) NATIONAL BANKS.—Chapter 1 of title LXII of the Revised Statutes of the United States (12 U.S.C. 5133 et seq.) is amended by adding at the end the following new section:

"SEC. 5156A. MERGERS, CONSOLIDATIONS, AND OTHER ACQUISITIONS AUTHORIZED. 12 USC 215c.

"(a) IN GENERAL.—Subject to sections 5(d)(3) and 18(c) of the Federal Deposit Insurance Act and all other applicable laws, any national bank may acquire or be acquired by any insured depository institution.

"(b) EXPEDITED APPROVAL OF ACQUISITIONS.—

"(1) IN GENERAL.—Any application by a national bank to acquire or be acquired by another insured depository institution which is required to be filed with the Comptroller of the Currency by section 5(d)(3) of the Federal Deposit Insurance Act or any other applicable law or regulation shall be approved or disapproved in writing by the agency before the end of the 60-day period beginning on the date such application is filed with the agency.

"(2) EXTENSIONS OF PERIOD.—The period for approval or disapproval referred to in paragraph (1) may be extended for an additional 30-day period if the Comptroller of the Currency determines that—

"(A) an applicant has not furnished all of the information required to be submitted; or

"(B) in the Comptroller's judgment, any material information submitted is substantially inaccurate or incomplete.

"(c) RULE OF CONSTRUCTION.—No provision of this section shall be construed as authorizing a national bank or a subsidiary of a national bank to engage in any activity not otherwise authorized under this Act or any other law governing the powers of national banks.

"(d) ACQUIRE DEFINED.—For purposes of this section, the term 'acquire' means to acquire, directly or indirectly, ownership or control through a merger or consolidation or an acquisition of assets or assumption of liabilities, provided that following such merger, consolidation, or acquisition, an acquiring insured depository institution may not own the shares of the acquired insured depository institution.".

Approved December 19, 1991.

LEGISLATIVE HISTORY—S. 543 (H.R. 3768):

HOUSE REPORTS: Nos. 102-330 accompanying H.R. 3768 (Comm. on Banking, Finance and Urban Affairs) and 102-407 (Comm. of Conference).
SENATE REPORTS: No. 102-167 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD, Vol. 137 (1991):
Nov. 13, 14, 18, 19, 21, considered and passed Senate.
Nov. 21, H.R. 3768 considered and passed House.
Nov. 23, S. 543 considered and passed House, amended, in lieu of H.R. 3768.
Nov. 26, House agreed to conference report.
Nov. 27, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 27 (1991):
Dec. 19, Presidential statement.

Public Law 102-243
102d Congress

An Act

Dec. 20, 1991
[S. 1462]

To amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment.

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

Telephone Consumer Protection Act of 1991.
47 USC 609 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telephone Consumer Protection Act of 1991".

47 USC 227 note.

SEC. 2. FINDINGS.

The Congress finds that:

(1) The use of the telephone to market goods and services to the home and other businesses is now pervasive due to the increased use of cost-effective telemarketing techniques.

(2) Over 30,000 businesses actively telemarket goods and services to business and residential customers.

(3) More than 300,000 solicitors call more than 18,000,000 Americans every day.

(4) Total United States sales generated through telemarketing amounted to $435,000,000,000 in 1990, a more than four-fold increase since 1984.

(5) Unrestricted telemarketing, however, can be an intrusive invasion of privacy and, when an emergency or medical assistance telephone line is seized, a risk to public safety.

(6) Many consumers are outraged over the proliferation of intrusive, nuisance calls to their homes from telemarketers.

(7) Over half the States now have statutes restricting various uses of the telephone for marketing, but telemarketers can evade their prohibitions through interstate operations; therefore, Federal law is needed to control residential telemarketing practices.

(8) The Constitution does not prohibit restrictions on commercial telemarketing solicitations.

(9) Individuals' privacy rights, public safety interests, and commercial freedoms of speech and trade must be balanced in a way that protects the privacy of individuals and permits legitimate telemarketing practices.

(10) Evidence compiled by the Congress indicates that residential telephone subscribers consider automated or prerecorded telephone calls, regardless of the content or the initiator of the message, to be a nuisance and an invasion of privacy.

(11) Technologies that might allow consumers to avoid receiving such calls are not universally available, are costly, are unlikely to be enforced, or place an inordinate burden on the consumer.

(12) Banning such automated or prerecorded telephone calls to the home, except when the receiving party consents to receiving the call or when such calls are necessary in an emergency

situation affecting the health and safety of the consumer, is the only effective means of protecting telephone consumers from this nuisance and privacy invasion.

(13) While the evidence presented to the Congress indicates that automated or prerecorded calls are a nuisance and an invasion of privacy, regardless of the type of call, the Federal Communications Commission should have the flexibility to design different rules for those types of automated or prerecorded calls that it finds are not considered a nuisance or invasion of privacy, or for noncommercial calls, consistent with the free speech protections embodied in the First Amendment of the Constitution.

(14) Businesses also have complained to the Congress and the Federal Communications Commission that automated or prerecorded telephone calls are a nuisance, are an invasion of privacy, and interfere with interstate commerce.

(15) The Federal Communications Commission should consider adopting reasonable restrictions on automated or prerecorded calls to businesses as well as to the home, consistent with the constitutional protections of free speech.

SEC. 3. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT.

(a) AMENDMENT.—Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

"SEC. 227. RESTRICTIONS ON THE USE OF TELEPHONE EQUIPMENT. 47 USC 227.

"(a) DEFINITIONS.—As used in this section—

"(1) The term 'automatic telephone dialing system' means equipment which has the capacity—

"(A) to store or produce telephone numbers to be called, using a random or sequential number generator; and

"(B) to dial such numbers.

"(2) The term 'telephone facsimile machine' means equipment which has the capacity (A) to transcribe text or images, or both, from paper into an electronic signal and to transmit that signal over a regular telephone line, or (B) to transcribe text or images (or both) from an electronic signal received over a regular telephone line onto paper.

"(3) The term 'telephone solicitation' means the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which is transmitted to any person, but such term does not include a call or message (A) to any person with that person's prior express invitation or permission, (B) to any person with whom the caller has an established business relationship, or (C) by a tax exempt nonprofit organization.

"(4) The term 'unsolicited advertisement' means any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person's prior express invitation or permission.

"(b) RESTRICTIONS ON THE USE OF AUTOMATED TELEPHONE EQUIPMENT.—

"(1) PROHIBITIONS.—It shall be unlawful for any person within the United States—

"(A) to make any call (other than a call made for emergency purposes or made with the prior express consent of

the called party) using any automatic telephone dialing system or an artificial or prerecorded voice—

"(i) to any emergency telephone line (including any '911' line and any emergency line of a hospital, medical physician or service office, health care facility, poison control center, or fire protection or law enforcement agency);

"(ii) to the telephone line of any guest room or patient room of a hospital, health care facility, elderly home, or similar establishment; or

"(iii) to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call;

"(B) to initiate any telephone call to any residential telephone line using an artificial or prerecorded voice to deliver a message without the prior express consent of the called party, unless the call is initiated for emergency purposes or is exempted by rule or order by the Commission under paragraph (2)(B);

"(C) to use any telephone facsimile machine, computer, or other device to send an unsolicited advertisement to a telephone facsimile machine; or

"(D) to use an automatic telephone dialing system in such a way that two or more telephone lines of a multi-line business are engaged simultaneously.

"(2) REGULATIONS; EXEMPTIONS AND OTHER PROVISIONS.—The Commission shall prescribe regulations to implement the requirements of this subsection. In implementing the requirements of this subsection, the Commission—

"(A) shall consider prescribing regulations to allow businesses to avoid receiving calls made using an artificial or prerecorded voice to which they have not given their prior express consent; and

"(B) may, by rule or order, exempt from the requirements of paragraph (1)(B) of this subsection, subject to such conditions as the Commission may prescribe—

"(i) calls that are not made for a commercial purpose; and

"(ii) such classes or categories of calls made for commercial purposes as the Commission determines—

"(I) will not adversely affect the privacy rights that this section is intended to protect; and

"(II) do not include the transmission of any unsolicited advertisement.

"(3) PRIVATE RIGHT OF ACTION.—A person or entity may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State—

"(A) an action based on a violation of this subsection or the regulations prescribed under this subsection to enjoin such violation,

"(B) an action to recover for actual monetary loss from such a violation, or to receive $500 in damages for each such violation, whichever is greater, or

"(C) both such actions.

If the court finds that the defendant willfully or knowingly violated this subsection or the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B) of this paragraph.

"(c) PROTECTION OF SUBSCRIBER PRIVACY RIGHTS.—

"(1) RULEMAKING PROCEEDING REQUIRED.—Within 120 days after the date of enactment of this section, the Commission shall initiate a rulemaking proceeding concerning the need to protect residential telephone subscribers' privacy rights to avoid receiving telephone solicitations to which they object. The proceeding shall—

"(A) compare and evaluate alternative methods and procedures (including the use of electronic databases, telephone network technologies, special directory markings, industry-based or company-specific 'do not call' systems, and any other alternatives, individually or in combination) for their effectiveness in protecting such privacy rights, and in terms of their cost and other advantages and disadvantages;

"(B) evaluate the categories of public and private entities that would have the capacity to establish and administer such methods and procedures;

"(C) consider whether different methods and procedures may apply for local telephone solicitations, such as local telephone solicitations of small businesses or holders of second class mail permits;

"(D) consider whether there is a need for additional Commission authority to further restrict telephone solicitations, including those calls exempted under subsection (a)(3) of this section, and, if such a finding is made and supported by the record, propose specific restrictions to the Congress; and

"(E) develop proposed regulations to implement the methods and procedures that the Commission determines are most effective and efficient to accomplish the purposes of this section.

"(2) REGULATIONS.—Not later than 9 months after the date of enactment of this section, the Commission shall conclude the rulemaking proceeding initiated under paragraph (1) and shall prescribe regulations to implement methods and procedures for protecting the privacy rights described in such paragraph in an efficient, effective, and economic manner and without the imposition of any additional charge to telephone subscribers.

"(3) USE OF DATABASE PERMITTED.—The regulations required by paragraph (2) may require the establishment and operation of a single national database to compile a list of telephone numbers of residential subscribers who object to receiving telephone solicitations, and to make that compiled list and parts thereof available for purchase. If the Commission determines to require such a database, such regulations shall—

"(A) specify a method by which the Commission will select an entity to administer such database;

"(B) require each common carrier providing telephone exchange service, in accordance with regulations prescribed by the Commission, to inform subscribers for telephone exchange service of the opportunity to provide notification,

in accordance with regulations established under this paragraph, that such subscriber objects to receiving telephone solicitations;

"(C) specify the methods by which each telephone subscriber shall be informed, by the common carrier that provides local exchange service to that subscriber, of (i) the subscriber's right to give or revoke a notification of an objection under subparagraph (A), and (ii) the methods by which such right may be exercised by the subscriber;

"(D) specify the methods by which such objections shall be collected and added to the database;

"(E) prohibit any residential subscriber from being charged for giving or revoking such notification or for being included in a database compiled under this section;

"(F) prohibit any person from making or transmitting a telephone solicitation to the telephone number of any subscriber included in such database;

"(G) specify (i) the methods by which any person desiring to make or transmit telephone solicitations will obtain access to the database, by area code or local exchange prefix, as required to avoid calling the telephone numbers of subscribers included in such database; and (ii) the costs to be recovered from such persons;

"(H) specify the methods for recovering, from persons accessing such database, the costs involved in identifying, collecting, updating, disseminating, and selling, and other activities relating to, the operations of the database that are incurred by the entities carrying out those activities;

"(I) specify the frequency with which such database will be updated and specify the method by which such updating will take effect for purposes of compliance with the regulations prescribed under this subsection;

"(J) be designed to enable States to use the database mechanism selected by the Commission for purposes of administering or enforcing State law;

"(K) prohibit the use of such database for any purpose other than compliance with the requirements of this section and any such State law and specify methods for protection of the privacy rights of persons whose numbers are included in such database; and

"(L) require each common carrier providing services to any person for the purpose of making telephone solicitations to notify such person of the requirements of this section and the regulations thereunder.

"(4) CONSIDERATIONS REQUIRED FOR USE OF DATABASE METHOD.—If the Commission determines to require the database mechanism described in paragraph (3), the Commission shall—

"(A) in developing procedures for gaining access to the database, consider the different needs of telemarketers conducting business on a national, regional, State, or local level;

"(B) develop a fee schedule or price structure for recouping the cost of such database that recognizes such differences and—

"(i) reflect the relative costs of providing a national, regional, State, or local list of phone numbers of

subscribers who object to receiving telephone solicitations;

"(ii) reflect the relative costs of providing such lists on paper or electronic media; and

"(iii) not place an unreasonable financial burden on small businesses; and

"(C) consider (i) whether the needs of telemarketers operating on a local basis could be met through special markings of area white pages directories, and (ii) if such directories are needed as an adjunct to database lists prepared by area code and local exchange prefix.

"(5) PRIVATE RIGHT OF ACTION.—A person who has received more than one telephone call within any 12-month period by or on behalf of the same entity in violation of the regulations prescribed under this subsection may, if otherwise permitted by the laws or rules of court of a State bring in an appropriate court of that State—

"(A) an action based on a violation of the regulations prescribed under this subsection to enjoin such violation,

"(B) an action to recover for actual monetary loss from such a violation, or to receive up to $500 in damages for each such violation, whichever is greater, or

"(C) both such actions.

It shall be an affirmative defense in any action brought under this paragraph that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent telephone solicitations in violation of the regulations prescribed under this subsection. If the court finds that the defendant willfully or knowingly violated the regulations prescribed under this subsection, the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B) of this paragraph.

"(6) RELATION TO SUBSECTION (B).—The provisions of this subsection shall not be construed to permit a communication prohibited by subsection (b).

"(d) TECHNICAL AND PROCEDURAL STANDARDS.—

"(1) PROHIBITION.—It shall be unlawful for any person within the United States—

"(A) to initiate any communication using a telephone facsimile machine, or to make any telephone call using any automatic telephone dialing system, that does not comply with the technical and procedural standards prescribed under this subsection, or to use any telephone facsimile machine or automatic telephone dialing system in a manner that does not comply with such standards; or

"(B) to use a computer or other electronic device to send any message via a telephone facsimile machine unless such person clearly marks, in a margin at the top or bottom of each transmitted page of the message or on the first page of the transmission, the date and time it is sent and an identification of the business, other entity, or individual sending the message and the telephone number of the sending machine or of such business, other entity, or individual.

"(2) TELEPHONE FACSIMILE MACHINES.—The Commission shall revise the regulations setting technical and procedural stand- Regulations.

ards for telephone facsimile machines to require that any such machine which is manufactured after one year after the date of enactment of this section clearly marks, in a margin at the top or bottom of each transmitted page or on the first page of each transmission, the date and time sent, an identification of the business, other entity, or individual sending the message, and the telephone number of the sending machine or of such business, other entity, or individual.

"(3) ARTIFICIAL OR PRERECORDED VOICE SYSTEMS.—The Commission shall prescribe technical and procedural standards for systems that are used to transmit any artificial or prerecorded voice message via telephone. Such standards shall require that—

"(A) all artificial or prerecorded telephone messages (i) shall, at the beginning of the message, state clearly the identity of the business, individual, or other entity initiating the call, and (ii) shall, during or after the message, state clearly the telephone number or address of such business, other entity, or individual; and

"(B) any such system will automatically release the called party's line within 5 seconds of the time notification is transmitted to the system that the called party has hung up, to allow the called party's line to be used to make or receive other calls.

"(e) EFFECT ON STATE LAW.—

"(1) STATE LAW NOT PREEMPTED.—Except for the standards prescribed under subsection (d) and subject to paragraph (2) of this subsection, nothing in this section or in the regulations prescribed under this section shall preempt any State law that imposes more restrictive intrastate requirements or regulations on, or which prohibits—

"(A) the use of telephone facsimile machines or other electronic devices to send unsolicited advertisements;

"(B) the use of automatic telephone dialing systems;

"(C) the use of artificial or prerecorded voice messages; or

"(D) the making of telephone solicitations.

"(2) STATE USE OF DATABASES.—If, pursuant to subsection (c)(3), the Commission requires the establishment of a single national database of telephone numbers of subscribers who object to receiving telephone solicitations, a State or local authority may not, in its regulation of telephone solicitations, require the use of any database, list, or listing system that does not include the part of such single national datebase that relates to such State.

"(f) ACTIONS BY STATES.—

"(1) AUTHORITY OF STATES.—Whenever the attorney general of a State, or an official or agency designated by a State, has reason to believe that any person has engaged or is engaging in a pattern or practice of telephone calls or other transmissions to residents of that State in violation of this section or the regulations prescribed under this section, the State may bring a civil action on behalf of its residents to enjoin such calls, an action to recover for actual monetary loss or receive $500 in damages for each violation, or both such actions. If the court finds the defendant willfully or knowingly violated such regulations, the court may, in its discretion, increase the amount of the award to

an amount equal to not more than 3 times the amount available under the preceding sentence.

"(2) EXCLUSIVE JURISDICTION OF FEDERAL COURTS.—The district courts of the United States, the United States courts of any territory, and the District Court of the United States for the District of Columbia shall have exclusive jurisdiction over all civil actions brought under this subsection. Upon proper application, such courts shall also have jurisdiction to issue writs of mandamus, or orders affording like relief, commanding the defendant to comply with the provisions of this section or regulations prescribed under this section, including the requirement that the defendant take such action as is necessary to remove the danger of such violation. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

"(3) RIGHTS OF COMMISSION.—The State shall serve prior written notice of any such civil action upon the Commission and provide the Commission with a copy of its complaint, except in any case where such prior notice is not feasible, in which case the State shall serve such notice immediately upon instituting such action. The Commission shall have the right (A) to intervene in the action, (B) upon so intervening, to be heard on all matters arising therein, and (C) to file petitions for appeal.

"(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under this subsection in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or where the defendant may be found.

"(5) INVESTIGATORY POWERS.—For purposes of bringing any civil action under this subsection, nothing in this section shall prevent the attorney general of a State, or an official or agency designated by a State, from exercising the powers conferred on the attorney general or such official by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

"(6) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this subsection shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

"(7) LIMITATION.—Whenever the Commission has instituted a civil action for violation of regulations prescribed under this section, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for any violation as alleged in the Commission's complaint.

"(8) DEFINITION.—As used in this subsection, the term 'attorney general' means the chief legal officer of a State.".

(b) CONFORMING AMENDMENT.—Section 2(b) of the Communications Act of 1934 (47 U.S.C. 152(b)) is amended by striking "Except as provided" and all that follows through "and subject to the provisions" and inserting "Except as provided in sections 223 through 227, inclusive, and subject to the provisions".

47 USC 227 note.

(c) DEADLINE FOR REGULATIONS; EFFECTIVE DATE.—

(1) REGULATIONS.—The Federal Communications Commission shall prescribe regulations to implement the amendments made by this section not later than 9 months after the date of enactment of this Act.

(2) EFFECTIVE DATE.—The requirements of section 228 of the Communications Act of 1934 (as added by this section), other than the authority to prescribe regulations, shall take effect one year after the date of enactment of this Act.

SEC. 4. AM RADIO SERVICE.

47 USC 331.

Section 331 of the Communications Act of 1934 is amended—

(1) in the heading of such section, by inserting "AND AM RADIO STATIONS" after "TELEVISION STATIONS";

(2) by inserting "(a) VERY HIGH FREQUENCY STATIONS.—" after "SEC. 331."; and

(3) by adding at the end the following new subsection:

"(b) AM RADIO STATIONS.—It shall be the policy of the Commission, in any case in which the licensee of an existing AM daytime-only station located in a community with a population of more than 100,000 persons that lacks a local full-time aural station licensed to that community and that is located within a Class I station primary service area notifies the Commission that such licensee seeks to provide full-time service, to ensure that such a licensee is able to place a principal community contour signal over its entire community of license 24 hours a day, if technically feasible. The Commission shall report to the appropriate committees of Congress within 30 days after the date of enactment of this Act on how it intends to meet this policy goal.".

Reports.

Approved December 20, 1991.

LEGISLATIVE HISTORY—S. 1462:

SENATE REPORTS: No. 102-178 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 137 (1991):

Nov. 7, considered and passed Senate.

Nov. 26, considered and passed House, amended.

Nov. 27, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 27 (1991):

Dec. 20, Presidential statement.