Section-By-Section Analysis

Surface Transportation Assistance Act of 1991

Sec. 1, Short Title; Table of Contents, states that the Act may be cited as the "Surface Transportation Assistance Act of 1991" (STAA) and provides a table of contents for Titles I through V of the Act.

Sec. 2, Secretary Defined, provides that the term "Secretary", when used in the STAA, means the Secretary of Transportation.

Sec. 3, Title 23 Analysis, Construction, Effective Date and Repeal, provides a table of chapters for the new title 23, enacted as a part of the STAA; provides a savings clause so, in the event that a part of the new title 23 is held invalid, all other parts will still be valid; provides an effective date for the new title 23 of October 1, 1991 and repeals the old title 23 on October 1, 1991.

Sec. 4, Buy America, amends the provisions of section 165 of the Surface Transportation Assistance Act of 1982 to provide for a Presidential waiver of Buy America requirements under the authority of section 301 of the Trade Agreement Act of 1979, 19 U.S.C. 2511.

Sec. 5, Disadvantaged Business Enterprises, provides for an ongoing Disadvantaged Business Enterprise (DBE) program. The section is a continuation of section 106(c) of the 1987 Surface Transportation and Uniform Relocation Assistance Act, which maintained the statutory authority originally in section 105(f)

of the 1982 Surface Transportation Assistance Act. The purpose of the DBE program is to maximize opportunities for DBE firms to participate in Federal-aid highway construction and related contracts.

The definition of a "Small Business Concern" has been changed to include the $15,370,000.00 level of annual gross receipts determined by the Secretary of Transportation as of June 20, 1990.

Section-By-Section Analysis

Title I -- Federal-Aid Highway Act of 1991

Sec. 101, Short Title, provides that title I may be cited as the "Federal-Aid Highway Act of 1991".

Sec. 102, Authorization of Appropriations, provides authorizations for fiscal years 1992, 1993, 1994, 1995 and 1996 out of the Highway Account of the Highway Trust Fund (HTF) for the National Highway Program (NHP), the Urban and Rural Program, the Bridge Program, the Emergency Relief (ER) Program, the Federal Lands Highways Program, (Forest highways, Park Roads and Parkways, and Indian Reservation roads), and University Transportation Centers. Section 102 also provides an additional open ended authorization out of the Highway Account of the HTF for each of the fiscal years 1993, 1994, 1995 and 1996 to replenish the Right-of-Way Revolving Fund and provides an authorization out of the Highway Account of the HTF for each of the fiscal years 1993, 1994, 1995, and 1996 for Highway Use Tax Evasion Projects. There will be contract authority for each of these authorizations except for the University Transportation Center and the Right-of-way Revolving Fund authorizations.

Sec. 103, Unobligated Balances, provides for the disposition of unobligated balances of funds that exist on October 1, 1991. The States may use their unobligated balances as they would have in FY 1991, subject to the same rules and conditions that existed in that year. For example, programs with four year availability would have until the end of FY 1993 to use the funds or they would

lapse. The States could, however, choose to transfer certain unobligated balances to new categories established in this act. Primary and Interstate 4R balances could be transferred to the NHP. Other balances, except Interstate Completion and Interstate Substitution, could be transferred to the Urban and Rural Program. Interstate Substitution balances could not be transferred. Transferred funds would assume the administrative characteristics of the category to which transferred and transfers could only be done once each year.

Sec. 104, Interstate Construction, repeals the Interstate authorization of $1.4 billion which would have been apportioned on October 1, 1991, and provides Interstate construction authorizations out of the Highway Account of the HTF for fiscal years 1992, 1993, 1994 and 1995. Apportionment will be made to all States, except Massachusetts, based on the State's proportional share of the cost to complete the Interstate System in the 1991 Interstate Cost Estimate with adjustments to reflect changes in available funds. Massachusetts will be allocated a specific amount each fiscal year. Separate allocations for Massachusetts, which generally correspond with its estimated obligation schedule, make funds available to other States on a more timely basis than would have been the case under the normal apportionment process, and thus helps to expedite completion of the program in those States. No further authorizations are contemplated for Interstate construction.

Funds authorized for fiscal years 1992, 1993 and 1994 will be available to the States, except Massachusetts, for obligation on

eligible Interstate construction projects until the close of the fiscal year in which they are apportioned. Lapsing funds will be reallocated to States, except Massachusetts, with remaining Interstate construction needs at the discretion of the Secretary. Lapsing funds shall be reallocated only for ready to go projects. All funds apportioned to Massachusetts will remain available for obligation on eligible Interstate construction projects until expended.

All funds apportioned for fiscal year 1995 shall be available until expended for Interstate construction.

A State may transfer Interstate apportionments to NHP apportionments in amounts equal to the costs of additional work on open to travel segments that have been built with Interstate construction funds as shown in the 1991 ICE.

Sec. 105, Interstate Substitution, authorizes funds out of the Highway Account of the HTF for the Interstate Substitution Program for fiscal years 1992, 1993, 1994 and 1995. Authorizations out of the Mass Transit Account of the HTF for transit projects under the Interstate Substitution Program are in Title IV of the STAA of 91. No further authorizations are contemplated for Interstate Substitution. The sums authorized will be apportioned in the ratio that the withdrawal value in a State is to the remaining nationwide withdrawal value. Those sums will be available until expended for obligation under the law, regulations, policies and procedures relating to the obligation and expenditure of Interstate Substitution funds in effect on September 30, 1991. Unobligated balances of Interstate

substitution funds available to a State on September 30, 1991 will remain available in a like manner.

Sec. 106, Chapters 1, 2 and 3 of Title 23, reenacts chapters 1, 2 and 3 of title 23, United States Code. The reenactment of these chapters in effect repeals any section omitted from the new title. Repealed by omission are:

1. 23 U.S.C. 102, Authorizations.
2. 23 U.S.C. 105, Programs.
3. 23 U.S.C. 119, Interstate system resurfacing.
4. 23 U.S.C. 122, Payment to states for bond retirement.
5. 23 U.S.C. 124, Advances to States.
6. 23 U.S.C. 126, Diversion.
7. 23 U.S.C. 130, Railway-highway crossings.
8. 23 U.S.C. 135, Traffic operations improvement program.
9. 23 U.S.C. 143, Economic growth center development highways.
10. 23 U.S.C. 147, Priority primary routes.
11. 23 U.S.C. 148, Development of a National scenic and recreational highway.
12. 23 U.S.C. 150, Allocation of urban system funds.
13. 23 U.S.C. 152, Hazard elimination program.
14. 23 U.S.C. 155, Access highways to public recreation areas on certain lakes.
15. 23 U.S.C. 157, Minimum allocation.
16. 23 U.S.C. 201, Authorizations.
17. 23 U.S.C. 212, Inter-American Highway.
18. 23 U.S.C. 216, Darien Gap Highway.

19. 23 U.S.C. 306, Mapping.

20. 23 U.S.C. 308, Cooperation with other American Republics.

21. 23 U.S.C. 320, Bridges on Federal dams.

Many other sections have been retained only in part and many have been extensively revised. Partial retentions and revisions will be discussed in the section-by-section analysis for the new title 23.

Section-by-Section Analysis

Chapter 1 -- Programs

Title 23, United States Code

Sec. 101, Definitions, replaces 23 U.S.C. 101, Definitions and declaration of policy. All of 23 U.S.C. 101 except definitions is repealed by omission. The definition for "apportionment" is repealed by omission.

A definition for "construction" is retained in a shortened, comprehensive, format. The specific elements dropped from the previous definition are addressed in a generic manner and will remain eligible for Federal-aid. The definition for "county" is retained. The definition for "Federal lands highways" is amended by striking "public lands highways".

The definitions for "forest road or trail," "forest highway" and "forest development roads and trails" are retained. The definition for "highway" is retained with a provision that includes "scenic easements" as part of a highway. The definition for "Federal-aid highways" is repealed by omission as are the definitions for "Federal-aid system," "Federal-aid primary system," "Federal-aid secondary system" and "Federal-aid urban system." The definition for "highway safety improvement project" is replaced by a shortened definition of "highway safety improvements." The definition "Indian reservation roads" is amended to reflect changes in the bill.

The definition for the "Interstate System" is retained. The definition for "maintenance" is retained. New definitions

are added for the terms "National Highway System" and "open to public travel". A definition for "operational improvement" is added. The definitions for "park road" and "parkway" are retained.

The definition for "project" is deleted. The definition for "project agreement" is retained with minor, technical modifications. A definition for "public authority" is added.

The definition for "public lands development roads and trails" is retained. The definition for "public lands highways" is repealed by omission. The definition for "public road" is retained as are the definitions for "rural areas" and "Secretary." A new definition for the term "startup costs for traffic management and control" is added.

Definitions for the terms "State" and "State funds" are retained. The definition for "State highway department" is deleted as section 602 requires a State highway or transportation department as determined by the Secretary. A new definition is added for the term "Strategic Highway Network." Definitions for the terms "urban area" and "urbanized area" are retained.

Sec. 102, National Highway Program, establishes the NHP for the purpose of providing a NHS. The section defines the NHS, sets forth the procedure and time frame for designating NHS highways, and specifies the selection of projects and eligible activities.

The NHS is to consist of highways on the Interstate System; selected urban and rural principal arterials including toll roads; highways on the Strategic Highway Network (STRAHNET), i.e., highways that provide defense access, continuity, and emergency

capabilities for the movement of personnel, materials, and equipment; and connectors to the STRAHNET, i.e., highways to provide access from major military installations to the STRAHNET. While NHS mileage is limited to 150,000 miles the Secretary can make adjustments not to exceed 10 percent.

The Interstate System as presently designated will be retained as part of the NHS. Future additions to the Interstate System also will be designated as part of the NHS. Other urban and rural principal arterials will be designated by the States in cooperation with local officials, with the approval of the Secretary. In urbanized areas local officials are to act through the designated metropolitan planning organizations (MPOs). STRAHNET Highways and connectors to the STRAHNET will be designated by the Secretary and the Secretary of Defense in consultation with the States.

The NHS will be based on a functional reclassification of roads and streets in each State. The NHS should be designated by September 30, 1992 and shall be designated not later than September 30, 1993, in accordance with guidelines to be issued by the Secretary. During FY 1992 and, if necessary, FY 1993, while the designation process is underway, the States may use NHP funds on the preliminarily designated NHS consisting of principal arterials as designated by the States and approved by the Secretary as of September 30, 1991. All mileage of the NHS shall be available for those commercial motor vehicles that meet the length and width limitations of the 1982 STAA, as amended, except for mileage where all truck traffic is prohibited and except when

a Governor requests deletion of a segment. The Secretary must approve exceptions.

Projects that are not in urbanized areas will be selected by the States. In urbanized areas projects shall be selected in cooperation with MPOs within the framework of the cooperative planning process and from the transportation improvement program.

Activities eligible for NHP funding include those that have traditionally been eligible for Federal-aid highway funding: construction, highway safety improvements, transportation planning, highway research and development, technology transfer, junkyard control, and outdoor advertising control. There are also new eligibilities. The first is expanded operational improvements, which are capital improvements that will improve or enhance the operational efficiency of an NHS facility: these operational improvements are eligible on non-local and non rural minor collector highways adjacent to fully access controlled NHS facilities, as long as the improvements will improve the level of service on the NHS and will improve regional travel. The second is improvements or changes to existing roads so that they can more effectively accommodate other modes of transportation (such as mass transportation and intercity bus transportation), as long as these changes do not hurt the highway use of the road. The third is startup costs for traffic management and control measures with the following conditions: eligibility is limited to 2 years; NHP funds cannot replace existing funds; and the State must agree to continue operating the improvement or be responsible for its operation at the end of the eligibility period.

Projects on the NHS that enhance rural and urban accessibility and mobility, bicycle and pedestrian projects, and projects to develop and improve scenic byways that are part of the NHS may also be funded under the NHP. Projects are also eligible that enhance international travel including right-of-way needed for customs and immigration stations, and in constructing access lanes, parking areas, surfacing, lighting, safety appurtenances, and similar highway related items at or approaching border crossings.

Construction or reconstruction of beltways and bypasses on the NHS that are serving urbanized areas of over 200,000 population have special rules. They must be designed, and sufficient right-of-way acquired, to provide for the ultimate development of multilane divided highways with separate roadways for through traffic. Access to through traffic roadways must be limited to interchanges with NHS routes or other limited access facilities.

Sec. 103, Interstate System, defines the Interstate System and provides for additions to the Interstate System. The Interstate System was previously defined in the old 23 U.S.C. 103. Provisions from the old 23 U.S.C. 103 concerning the primary, urban and secondary systems and the Interstate Substitution Program are repealed by omission. Section 103 provides that the newly defined Interstate System will include all routes on the Interstate System as of the date of enactment except that routes in Alaska and Puerto Rico must be classified as principal arterials.

The section also permits the Secretary of Transportation to approve adding to the system existing, or new, toll or free routes that meet Interstate standards and are connected to the Interstate System.

Sec. 104, Urban and Rural Program, establishes a new program that gives the States greater flexibility and minimal Federal requirements. Funds for the new program may be applied to any public roads, except NHS roads and roads functionally classified as local or rural minor collector. States may elect to use up to 5 percent of their annual apportionment of Urban and Rural funds for highway safety improvements or for the elimination of rail-highway crossing hazards on roads functionally classified as local or rural minor collector.

Eligible activities are greatly expanded from previous categories incorporated into this program. Included are the traditional activities of construction, highway safety improvements, transportation planning, highway research and development, technology transfer, outdoor advertising control, junkyard control, etc., along with activities that include capital transit projects, projects to improve intercity bus operations, startup costs for traffic management and control, projects to develop and improve bikeways and scenic byways, and projects to provide rural and urban accessibility and mobility.

Metropolitan and Rural Innovative Bonus Projects are to be encouraged by a set aside of obligation limitation. These projects are innovative, immediate action, non-capital intensive measures focusing on highway and/or transit related supply or

demand management. In metropolitan areas such measures may include those oriented towards peak spreading, ride sharing, improved travel information, systems operations and management, pricing and non-motorized commutation or any combination of these activities which could be implemented in a relatively short time frame to relieve congestion and transportation related air quality problems in urbanized areas of more than 200,000 population. In rural areas, such measure shall be oriented towards supply and demand measures improving rural areas. Metropolitan and Rural Innovative Bonus Projects are eligible for funding under the Urban and Rural Program; however, the States may obtain additional obligational authority for these projects by submitting them to the Secretary for approval. If a project is determined by the Secretary, through this approval process, to merit additional obligation authority, the State would receive the extra authority which would be derived from a set aside of the nationwide limit. The set aside in FY 1992 would be $100 million with amounts for future years to be determined.

All projects under this program must be in compliance with applicable State requirements, and with certain Federal Acts, Regulations, and Executive Orders.

The requirements of the National Environmental Policy Act (NEPA) and other applicable Federal environmental laws may be met by the recipients of funds, who will assume responsibility for fulfilling all actions required under those laws. Regulations to implement this requirement including how the Department would delegate this authority shall be issued by the Secretary

in consultation with the Council on Environmental Quality. Each participating State will submit an annual certification in a form acceptable to the Secretary. The Secretary's approval of the certification will satisfy the Secretary's responsibilities for the approval of projects under NEPA and other applicable Federal environmental laws. The Department intends to provide the necessary training and assistance to recipients so that they may carry out the responsibilities they receive under this provision.

Other requirements include: an established bridge inspection and inventory system; consulting with local officials and Indian tribal officials on rural projects and urban projects in urban areas under 50,000 population; and, in urbanized areas, cooperating with local officials in project selection from a transportation improvement program developed by the MPO.

The State also has to certify that it has developed an internal fund distribution method which is fair and equitable to rural and urban areas, including urbanized areas over 200,000 population.

The Secretary, upon discovering non-compliance with a requirement, will notify the State and initiate a 60-day period for the State to take corrective action. Future payments will be withheld until corrective action is taken.

Each State must submit an annual certification, in addition to the one mentioned earlier, from its Governor that it will meet all the requirements of this section. That certification will include an estimate of the obligations that the State expects to incur for projects under this program and for bridge program

projects administered under this program during the fiscal year. When the Secretary accepts the certification, a contractual obligation in the amount of the estimated obligations will have been entered into. The estimate can be adjusted later if the State wants to obligate more or less of the program's funds. If a State seeks additional obligation ceiling for Metropolitan and Rural Innovative Bonus projects it must submit a PS&E along with the request for additional obligated authority.

The Secretary may conduct reviews of procedures and projects. In addition, the States shall make an annual report to the Secretary on the use of the funds. Reports shall be prepared in cooperation with MPOs.

Sec. 105, Toll Roads, Bridges, Tunnels and Ferries, replaces 23 U.S.C. 129 and 301. The provisions from 23 U.S. 129(a) permitting the construction of toll bridges, toll tunnels and their approaches in the same manner as free highways are continued.

NHP and Bridge funds can be used for 4R projects on NHS toll facilities; for construction of new NHS toll facilities; for reconstruction projects on an existing free NHS highways, except an Interstate highway, to convert the highway to a toll facility to provide full access control and to increase the number of lanes, and for reconstruction or replacement of any free NHS bridge or tunnel and their approaches to connect it to a toll facility.

Urban and Rural Program and Territorial Highway Program funds may be obligated without limitation to build new or improve

existing toll highways, bridges or tunnels and to convert a free non Interstate highway, bridge or tunnel to a toll facility to provide full access control and to increase the number of lanes. The maximum Federal share payable for toll projects will be 35 percent, except (1) the Secretary may require a lesser Federal share on a project-by-project basis, (2) the Federal share for construction of bridges and tunnels and their approaches may be the share provided for a free highway project; and (3) the Federal share for preliminary studies to determine the feasibility of a toll facility may be the share provided for a free highway facility.

Toll facilities shall be publicly owned or private firms may design, finance, construct and operate toll facilities under a contract with a public authority provided that private funds may participate in the State matching share. The State shall be responsible for title 23 requirements. States must agree to cease tolls on a facility using Federal-aid funds in its construction or improvement after costs have been recovered; States, may however, continue tolls, on facilities constructed with a 35 percent Federal share or less and on facilities constructed under toll agreements prior to the enactment of this Act, if toll revenues that are in excess of the amount needed for operation and maintenance of the facility are used for activities eligible under title 23.

The section restates the ferry approach provisions of 23 U.S.C. 129(f), repeals 23 U.S.C. 129(h), (i) (j) and (k) by omission and defines the term "initial construction".

Sec. 106, Bridge Program, replaces 23 U.S.C. 144, the highway bridge replacement and rehabilitation program. The bridge program will fund the replacement or rehabilitation of highway bridges when there is a finding that a bridge is important, that it is unsafe, that it poses a safety hazard to highway users, that its replacement or rehabilitation would improve traffic or that its replacement or rehabilitation would improve emergency services.

Requirements to inventory highway bridges, assess each bridge for its safety and adequacy to serve traffic, assign each unsafe inadequate bridge to a replacement or rehabilitation category and determine the cost of improving each bridge based on its category are continued.

The Secretary may approve Federal participation for a bridge which is eligible under inventory and assessment procedures. The Secretary must give first consideration to projects that will remove dangerous bridges from service. Projects on eligible bridges of the NHS shall have been identified through a bridge management system approved by the Secretary. The Secretary may approve eligible bridges on public roads off the NHS if the agency with jurisdiction over the bridge has a bridge inspection and inventory program that meets the requirements of the National Bridge Inspection Standards.

Bridge Program funds can be used for replacement and rehabilitation, to develop a bridge management system, and to correct normally ineligible safety related bridge deficiencies that have been identified as high priority by the Secretary. High

priority deficiencies must be corrected on a bridge improved under the Bridge Program.

A Major Bridge Discretionary Program is established as a component of the Bridge Program. NHS Bridges are eligible if the project costs are $10,000,000 or more. Bridges off the NHS on public roads other than roads functionally classified as local or rural minor collector are eligible if the project costs are $5,000,000 or more. Applications for funding must include an assessment of the feasibility of constructing a toll bridge and the option of commingled funding, i.e., using funds from other sources than the Bridge Program.

At least 10 percent but not more than 25 percent of each States bridge apportionment must be used for bridge projects on roads functionally classified as local or rural minor collector. The Secretary may reduce the minimum amount.

Bridge projects in urbanized areas must be selected pursuant to urbanized area planning requirements.

Factors which have to be considered when selecting projects for discretionary funding, include the bridge rating factor, bridge closings or load limits, the equitable nationwide distribution of funds, the need to complete projects already started, and other appropriate factors.

Bridge projects on the NHS will be handled the same as for any other NHP project. Bridge projects on other roads will be handled as though they were Urban and Rural program projects.

Current provisions of law relating to the General Bridge Act of 1946, ferryboat service, and historic bridges are continued

except that the federal share for replacement bridges under the ferryboat provision is changed to 75 percent from 80 percent and except that the historic bridge section is changed to require liability insurance coverage and an agreement to hold the State and Federal government harmless in any liability action.

Sec. 107, Emergency Relief, replaces 23 U.S.C. 125. It authorizes ER funds to be used for the repair or reconstruction of highways in the States and territories (other than highways functionally classified as local or rural minor collector) and on Federal roads that are damaged due to a natural disaster over a wide area (such as a flood, hurricane, tidal wave, earthquake, or severe storm), or due to a catastrophic failure from any external cause. The section also authorizes ER funds to be used for the maintenance and operation of ferry boats providing temporary substitute highway traffic service. It does not allow ER funds to be used for the repair or reconstruction of bridges that are permanently closed because of imminent danger of collapse due to structural deficiencies or physical deterioration. It prohibits the duplication of ER assistance with funds from other Federal programs or from physical damage insurance policies. Insurance for other purposes, such as loss of operating revenue not available for physical damage repairs, will not be charged against entitlements.

Sec. 108, Territorial Highway Program, restates 23 U.S.C. 215 without substantial change. It authorizes the Secretary to assist the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands in a program for the construction and

improvement of systems of arterial highways and inter-island connectors; to provide technical assistance for the establishment of an agency to administer the various aspects of the highway program; to enter into an agreement with each territory that defines the standards for the design, operation, and maintenance of the highway systems; and to allocate funds between the territories. The section specifies that a certain percentage of the funds are to be used for surveys and investigations, planning, studies, and research and development, but prohibits the use of Federal funds for maintenance of the highway systems.

Sec. 109, Federal Lands Highways Program, is an amendment of 23 U.S.C. 204. The section establishes a Federal Lands Highways Program consisting of forest highways, park roads and parkways, and Indian reservation roads. The prior program consisted of forest highways, public lands highways, park roads and parkways, and Indian reservation roads. The term "construction and improvement" has been changed to "planning, research, engineering and construction" to clarify the uses for available funds. Currently 3 U.S.C. 204 allows Federal Lands Highways funds to be used for vehicular parking and scenic easements. This has been expanded to include scenic outlooks to be consistent with current scenic byways activities. Other provisions of current law are still applicable.

Sec. 110, Research and Technology Program, replaces 23 U.S.C. 307(a), (b), (d) and (e). The section establishes the authority of the Secretary to engage in research, development and technology transfer activities under the Research and Technology Program,

lists studies that shall be included in the Research and Technology Program, establishes an Intelligent Vehicle Highway System Program and provides for collaborative research with academic, governmental and private entities. When the Secretary engages in collaborative research the average Federal share may not be greater than 50%, unless the Secretary raises the Federal share because of strong public interest or benefit. All directly related costs such as travel, personnel, hardware, etc., may count as the non-Federal share. The Research and Technology Program will be funded from administrative funds authorized by 23 U.S.C. 202(a). The section waives the provisions of section 3709 of the revised statutes as amended (41 U.C.C. 5). The waiver will permit negotiated contracts rather than awarding contracts strictly to the lowest bidder.

The highway research program will include 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 standards. The highway research program will also include studies to identify and measure quantitatively and qualitatively, those factors which relate to economic, social, environmental, and other impacts of highway projects; studies of Intelligent Vehicle Highway Systems; long term pavement performance and technology transfer; and studies of air quality impacts of transportation programs including the air quality benefits to be realized from transportation control measures required under the Clean Air Act.

Sec. 111, National Highway Institute, is an amendment of 23 U.S.C. 321. It continues the National Highway Institute (NHI) and permits U.S. citizens and foreign nationals engaged in highway work of interest to the United States to participate in NHI training programs. The restriction that only public sector employees that are or would be working on Federal-aid highways can receive NHI training is removed.

The NHI is given specific authority to cooperate with any national or international organization to develop, conduct, and administer training for any national or international individual engaged or to be engaged in highway work of interest to the United States.

The NHI is authorized to work independently or cooperatively with any national or international entity; collect fees for services and use those fees to improve the exchange of highway technology with any national or international entity or to assist in establishing an organization of countries to provide for the exchange of technology.

Programs of the NHI are to be funded from FHWA administrative funds. Monies collected by NHI for services provided may be joined with funds obtained from other cooperating organizations or individuals participating in NHI programs and be added to the funds used by NHI in carrying out its mission. The funds may also be expended for subsistence of employees of cooperating organizations attending training courses.

The States are allowed to use up to one-fourth percent of their NHP apportionments to pay up to 75 percent of the cost

of tuition and educational expenses for its employees, other than travel, subsistence, or salaries.

Sec. 112, Education and Training Program, continues and expands the Rural Transportation Assistance Program (RTAP). The Secretary will carry out this program through grants and direct contracts to provide access to modern highway technology and to develop educational and training packages and other technology transfer materials. The program is intended to serve local rural area highway agencies and highway agencies in urbanized areas of 50,000 to 1,000,000 population. The program includes the identification and preparation of materials on road and transportation topics and provides for the establishment of technical assistance program centers to deliver training and technology transfer materials.

Sec. 113, International Highway Transportation Outreach Program, is a new section with a threefold purpose: (1) to seek out, evaluate, and disseminate information about highway-related innovations from abroad for application in the U.S.; (2) to encourage the overseas use of American highway sector goods and services through promoting the quality and capabilities of the U.S. highway community; and (3) to assist developing countries to improve their highway technology and institutions. This section permits cooperative efforts with public, private, domestic and foreign entities to accomplish its purposes. The section also calls for the Secretary to consult with other Federal departments on how best to achieve the section's purposes.

Sec. 114, Urbanized Area Planning, replaces 23 U.S.C. 134. The current requirement for a continuing, cooperative, and comprehensive urban transportation planning process in urbanized areas of more than 50,000 population is continued with modifications to strengthen the planning process for urbanized areas of more than 200,000 population and to give the States and local units of government greater flexibility in areas of 200,000 or less population. In urbanized areas of more than 200,000 population, increased emphasis is placed on multimodal considerations and coordination with land use planning and development decisions and consideration of transportation related air quality problems.

In order to ensure that congestion problems in major metropolitan areas are addressed, urbanized areas of more than 200,000 population are required to have a multimodal congestion management system that results in a plan for the effective management of new and existing transportation facilities. In areas where a transportation element of the State Implementation Plan is required by the Clean Air Act, air quality considerations must be addressed and the congestion management system must be coordinated with the process to develop the State Implementation Plan. An evaluation of the costs and impacts on both air quality and mobility is required. Further, a highway project in areas of over 200,000 population that by reconstruction or new construction significantly increases the vehicle carrying capacity of a transportation corridor cannot be approved for Federal funding if the project is inconsistent with the congestion management

system. In addition to developing and implementing the congestion management system, the metropolitan planning organization and the State must cooperate in the development and implementation of a bridge management system, a pavement management system, a safety management system and a traffic monitoring system.

The requirement that a metropolitan planning organization (MPO) in urbanized areas of 50,000 population or more be designated by agreements among the local units of general purpose government and the Governor is continued. Designations made prior to enactment of this section are valid and redesignation is not required.

In urbanized areas, the MPO in cooperation with the State must develop a transportation improvement program that includes projects proposed for funding with NHP, Urban and Rural Program, and Bridge Program funds. Projects funded with NHP funds must be consistent with the systems required under 23 U.S.C. 301. In urbanized areas of more than 200,000 population, the transportation improvement program must be developed through a continuing, cooperative, and comprehensive urban transportation planning process.

In urbanized areas of 200,000 or less population, the MPO and the State will mutually decide on the extent of the planning process to be carried out. However, as a minimum the MPO and the State must develop a transportation improvement program, must assure that air quality problems in non-attainment areas are addressed and must assure that the Transportation Improvement Plan conforms to the State Implementation Plan.

Sec. 115, Statewide Transportation Planning and Research Program, replaces the planning and research provisions of 23 U.S.C. 307(c). The States would be required to use 1 1/2 percent of the funds apportioned to them for the NHP, the Urban and Rural Program and the Bridge Program to conduct statewide planning and research activities.

Statewide planning will be carried out in coordination with the transportation planning activities of local jurisdictions including the urban transportation planning process in urbanized areas. Air quality planning may be carried out outside of urbanized areas. As a minimum air quality planning shall cover the existing urbanized area and the area expected to become urbanized within the forecast period. In carrying out statewide transportation planning, the State is to promote coordination of the various transportation modes and consider national goals. Multi-modal studies that consider various modes, including high speed ground transportation (magnetic levitation) are eligible. The statewide planning process must also support the Management Systems and the Traffic Monitoring System required under 23 U.S.C. 301. Research that may be conducted under this section may include engineering and economic surveys and investigations; highway usage studies, including studies of equitable taxation; technology transfer activities; environmental studies; all aspects of development of highway systems; and for study; research and training on engineering standards and construction materials.

The States in cooperation with metropolitan planning organizations and local units of government will provide data

that the Secretary determines necessary to support national transportation studies and for other purposes established in title 23.

Existing 23 U.S.C. 307(c)(3) allows the States to use an additional 1/2 of 1 percent of their primary, urban, and secondary apportionments for planning and research purposes. In lieu of this type of provision, statewide planning and research has been made an eligible activity under the National Highway and the Urban and Rural Programs.

The maximum Federal share is 75 percent unless the Secretary finds that the interests of the Federal-aid highway program would be best served without requiring a State or local match of the Federal funds. The Secretary would use this waiver for planning activities of national importance.

Sec. 116. Outdoor Advertising, is an amendment of 23 U.S.C. 131. This section simplifies the Highway Beautification Program. The changes give the States greater flexibility in administering the program and focuses Federal efforts on billboards in rural areas.

"Effective control" is changed in scope from the Interstate and primary systems to the NHS and rural arterials eligible for the Urban Rural Program, and reduced in scope to apply only to those portions of the NHS and rural arterials that are outside of urbanized areas.

"Effective control" is redefined from the existing law which limits the erection and maintenance of all signs along controlled highways to five express categories. Free coffee signs

are deleted as an allowed category of sign because they generally have not been used. Signs in commercial and industrial areas that are lawfully in existence on October 1, 1991 as conforming signs under provisions of State law and consistent with the State/ Federal agreement that was in effect on October 1, 1991, may remain in place and may continue to be treated as conforming signs.

Other allowed categories of signs, which were carried over from the existing law, include directional and official signs, on-premise sale or lease signs, on-premise advertising signs including electronic signs, and landmark signs. Limitations on directional and official signs are to be determined by the Secretary through the regulatory process rather than including specifics in this section.

"Effective control" is further redefined by adding four new requirements: requiring a new inventory; prohibiting modification of any nonconforming sign to improve its visibility or useful life or modification of any conforming sign unless permitted by the State in accordance with criteria developed consistent with national standards promulgated by the Secretary; requiring removal within 90 days of when a sign becomes illegal or was acquired; and prohibiting new signs in areas subject to control including new off-premise signs in commercial and industrial areas. The time limitation of 90 days for the removal of illegal signs, and nonconforming signs after they have been acquired, will provide a legislative mandate for enforcement

purposes and prevent the practice of allowing those signs to remain standing for extended periods.

Control of signs also applies to public lands and reservations adjacent to the NHS and rural arterials outside the urbanized areas, exclusive of Indian lands and Indian reservations. Responsibility for control is formally directed to the specific Federal agency having jurisdiction over the lands. The responsible Federal agencies are to develop procedures within 1 year after the date of enactment to ensure effective control is attained on lands under their jurisdiction.

The penalty of a flat 10 percent withholding of apportionments is replaced with a provision allowing the Secretary discretionary authority to withhold project approvals and take other action necessary to obtain compliance. This change will make it possible for the Secretary to tailor the penalty to the severity of a State violation of the requirements. This penalty is an addition to the Secretary's general authority to withhold project approvals for failure to comply with statutory and regulatory requirements.

The States may but are not required to remove nonconforming signs existing on October 1, 1991.

Federal participation on the NHS is provided for the cost of the physical removal of nonconforming and illegal signs and the acquisition costs of nonconforming signs and sites. The total annual reimbursement is limited to 3 percent of the State's annual apportionment for the NHP. The acquisition cost of signs and sites on rural arterials is an eligible item for Urban Rural

Program funds. Federal participation out of the Highway Trust Fund is provided for States that elect to pay cash compensation. Previously, State costs were reimbursable only from the General Funds. The last appropriation for this purpose was in 1983.

The sale of signs acquired with Federal funds to a private party is prohibited unless assurance is received that the material will not be used for new signs.

The bonus program is terminated in bonus States once State legislation complying with this section becomes effective. This is because the prohibition on the erection of new signs will largely duplicate the current bonus controls outside urbanized areas in the 23 bonus States. A deadline has been set for filing bonus payment claims. Claims filed by March 1, 1992, will remain eligible for payment out of general appropriated funds.

Sec. 117. Junkyards, is an amendment of 23 U.S.C. 136.

The application of "effective control" is changed from the Interstate System and primary system to the NHS outside of urbanized areas.

Definitions are provided for "effective control," "junkyard" and "junk." The specific existing definition for automobile graveyard has been deleted because its meaning has been essentially incorporated within the terms of "junkyard" and "junk."

The expansion or establishment of junkyards in controlled areas within 1,000 feet of the nearest edge of the right-of-way after October 1, 1991 is prohibited unless screened. Screening is not required if an area is actually used primarily for

industrial activities. Each State is required to promulgate statewide criteria defining "screened" and "industrial" area.

The existing definition for "junkyard" without reference to automobile graveyards is retained.

The existing definition for "junk" is continued.

Lawfully established and maintained junkyards subject to effective control are allowed to remain for 5 years after the date of enactment and junkyards which become nonconforming after the date of enactment are allowed to remain for 5 years after becoming nonconforming.

Both the States and Federal agencies may impose stricter controls.

Control of junkyards also applies to public lands and reservations adjacent to the NHS, exclusive of Indian lands and Indian reservations. Responsibility for control is formally directed to the Federal agency with jurisdiction over the lands. Federal agencies are to develop procedures within 1 year after the date of enactment.

The withholding of apportionments penalty is replaced with a provision allowing the Secretary to withhold project approvals and take other action necessary to obtain compliance. This change will make it possible for the Secretary to tailor the penalty to the severity of a State violation of the requirements. This penalty is an addition to the Secretary's authority to withhold project approvals for failure to comply with statutory and regulatory requirements.

The source of funding is changed from the general fund to NHS funds and Federal participation is provided for in the cost of screening or removing junkyards made nonconforming by this law.

The Federal share for screening and removing junkyards is limited to that provided by Federal law and payments are limited to 3 percent of the State's annual apportionment for the NHP.

Sec. 118, Scenic Byways, is funded by set asides from Urban and Rural Program authorizations for fiscal years 1992, 1993, and 1994. The purpose of this section is to provide an incentive for States to take the initiative in establishing or expanding efforts to plan and develop programs for scenic byways. Funding under this section would only be available until the close of fiscal year 1994. It is expected that the States would continue their scenic byways efforts using funds available under the NHP and the Urban and Rural Program.

Sec. 119, Congestion Pricing, provides a limited exception from the general prohibition against imposition of tolls on highways built or improved with Federal-aid funds, for operational tests of congestion pricing measures in large urban areas (SMSA's of 1 million population or more) that have difficulty meeting air quality standards. The Secretary will issue guidelines for evaluation of the measures and may, upon application of a State, permit, as an operational test, the use of congestion pricing measures on Federal-aid highway routes in the cities. The Secretary is to evaluate the measures and report findings and recommendation.

Section-by-Section Analysis

Chapter 2 -- Administration of Funds

Title 23, United States Code

Sec. 201, Availability of Funds, replaces 23 U.S.C. 118 and provides that authorizations from the Highway Account of the HTF to carry out chapters 1, 2, 3 and 6 of title 23 and the Federal-aid Highway Act of 1991 shall be available for obligation on October 1 of the fiscal year for which they are authorized except as otherwise specifically provided. This provision provides the Secretary with contract authority for all these authorizations except for the Right-of-Way Revolving Fund and the University Transportation Center authorizations.

The section provides a period of availability for all Chapter 1 programs, except the Federal Lands Highway program.

Funds for the NHP, Urbanized Area Planning Program, Apportioned Bridge Program, and set asides for the Statewide Transportation Planning and Research Program will be available for 2 years. As an exception, NHP funds for fiscal years 1992, 1993, and 1994 will be available for 4 years. Funds for all of these programs, except for the planning and research program, will be reapportioned if they are not obligated within the period of availability.

Funds for the Major Bridge Discretionary Program and the High Cost Projects Fund will be available for 1 year. Funds that are not used within 1 year will be reallocated by the Secretary.

Funds for the ER and Urban and Rural programs will remain available until expended.

Funds allocated to a territory under the Territorial Highway Program (THP) will be available for 2 years. If these funds are not used within the period of availability they will be reallocated by the Secretary.

Current law regarding the obligation of funds is continued, i.e., funds are obligated on a first-in, first-out basis. Also, as in current law, funds deobligated will be credited to the program from which obligated and will be available immediately for obligation. Additional new language allows funds deobligated for programs that are inactive at the time of deobligation to be credited to the State's NHP account and be available for immediate obligation.

Special provisions in current law which permit title 23 funds made available to Alaska and Puerto Rico to be used for access and development roads that will serve resource development, recreational, residential, commercial, industrial, or other similar purposes are continued.

Sec. 202, Apportionment, replaces 23 U.S.C. 104. There will be an administrative deduction of up to 3 3/4 percent from NHP, Interstate Construction, Urban and Rural, Interstate Substitution and Bridge Programs for the administrative expenses of the FHWA. Funds will be available from the deduction for Operation Lifesaver. Expenses can be paid from this deduction for the cost of the Research and Technology Program. The sums deducted will remain available until expended.

Urbanized Area Planning will be funded by a 1/2 of 1 percent deduction of the remaining funds (after the deduction for administration) for the National Highway, Interstate Construction, Urban and Rural, and Bridge Programs. The funds will be apportioned, as in current law, in the ratio urbanized area population in each State bears to the total population of urbanized areas in all States, as shown in the latest census. No State will receive less than 1/2 of 1 percent of the total apportioned; the minimum apportionment may be used outside urbanized areas. The States are directed to make the funds available to the appropriate metropolitan planning organizations (MPO). The funds may be used outside of an urbanized area, if the MPO and the State agree. The Federal share for these funds will be 75 percent except where the Secretary determines that the Federal interest will be best served without a State match. The Secretary would use this waiver for planning activities of National importance.

Apportionment of funds for the NHP, the Urban and Rural Program, and the Bridge Program will be on October 1 of each year. After the deductions for administration and urbanized area planning, funds are set aside in fiscal years 1992 - 1995 for the High Cost Projects Fund from the NHP. The remaining NHP funds are to be apportioned 70 percent on highway use of motor fuel, 15 percent on public road mileage and 15 percent on land area. A low density factor is included in the NHP apportionment formula. Every State is guaranteed at least 1/2 of 1 percent of each year's apportionment.

To provide additional flexibility, a state may transfer up to 15 percent of its NHP funds to the Urban and Rural Program if the State and the Secretary agree that adequate Interstate System conditions exist and if the State meets criteria established by the Secretary. This will ensure that the Interstate System is being preserved before any transfers from the NHP would be allowed.

Urban and Rural Program funds will be subject to a takedown (in addition to the deductions for administration and urbanized area planning) of 1/2 of 1 percent for the Territorial Highway Program and will be subject to a set aside for the Safety Bonus Program. In fiscal years 1992, 1993, and 1994 the Urban and Rural Program will also be subject to a $5 million per year take down for scenic byways. The remainder of the Urban and Rural funds are apportioned based on the State's contribution to the Highway Account of the HTF. Every state is guaranteed 1/2 of 1 percent of each year's apportionment.

After the deductions for administration and urbanized area planning funds are set aside each year for Major Bridge discretionary projects from the Bridge Program. The remaining funds are apportioned by placing each bridge not meeting established level of service criteria into one of four categories according to whether the bridge is on or off the NHS and whether it is in need of replacement of rehabilitation. As in current law, each State will receive an apportionment based on the relative share of the total cost of deficient bridges. No State is to receive more than 10 percent or less than .25 percent of the

total apportionment, as in current law. The data upon which the Secretary apportions funds shall be updated biennially.

As under current law, funds are apportioned on October 1 of each year. The Secretary is to advise the States of the amount that will be apportioned to them at least 90 days before October 1.

A State's NHP funds are to be reduced by up to 10 percent of the apportionment if the State does not require proof of payment of heavy vehicle use tax prior to registering heavy vehicles. The withheld apportionment is to be reapportioned to other States not subject to this penalty.

At least 10 percent of the total of all apportionments must be expended for projects that have safety benefits.

Sec. 203, Project Agreements and Obligation of Funds, replaces 23 U.S.C. 110 and stipulates that the State highway department shall submit to the Secretary a formal project agreement for each proposed project under title 23, except Urban and Rural Program projects, projects administered under Urban and Rural Program procedures and projects administered under alternate project procedures. The Secretary shall act upon each proposed formal project agreement as soon as is practicable. Entering into a project agreement creates a contractual obligation of the United States to pay its proportional contribution for the project. This is a change from current law where obligations are incurred at approval of PS&E.

The Secretary can rely upon representations made by the State highway department relative to local involvement in projects.

The period within which actual construction must begin following the availability of right-of-way funds is changed from the current 10 years to 20 years. A new provision allows statewide preliminary engineering agreements.

Sec. 204, Federal Share Payable, replaces 23 U.S.C. 120 and identifies the Federal share for all programs in chapter 1 of the new title 23 except for section 105 toll program projects. The Federal share for toll program projects is provided in 23 U.S.C. 105(a)(2).

The basic maximum Federal share is 75 percent for NHP projects. Current provisions of law regarding a sliding scale are continued, except that the maximum Federal share is changed from 95 to 90 percent.

The basic maximum Federal share is 90 percent for Interstate 3R projects and Operational Improvements projects. A sliding scale will apply to a maximum of 95 percent.

NHP funds can be also used for 75 percent of the cost of operational improvements projects on roads that are not on the NHS. The road cannot be functionally classified as local or rural minor collector.

A sliding scale will apply to a maximum of 90 percent.

The Secretary of Transportation can rely on an annual statement by the Secretary of the Interior to determine the area of the public lands, Indian lands, national forest, national

parks and monuments included in the sliding scale calculation for NHP, ER, Interstate Resurfacing, Restoring and Rehabilitating, and Interstate Operational Improvements projects.

The maximum Federal share is 75 percent for Bridge, Urbanized Area Planning and Statewide Transportation Planning and Research, projects. Federal Lands funds may be used, in lieu of State and local funds, as the match for Bridge projects eligible under the Bridge and Federal Lands highway programs.

There is a Federal share of 100 percent for Federal Lands Highways projects and projects in the Territories of the Virgin Islands, Guam, American Samoa or the Northern Mariana Islands.

A Federal share of 50 percent is provided for projects funded with University Transportation Center Program funds.

The Federal share for training funded with Education and Training Program funds is to be determined by the Secretary.

A basic maximum Federal share of 60 percent is provided for Urban and Rural projects. Current provisions of law regarding a sliding scale are continued with a maximum Federal share of 75 percent.

NHP, Urban and Rural Program, and Bridge funds can be used on roads within Indian reservations and national parks and monuments at the Federal share applicable to the particular program source of funds.

The States are allowed to overmatch Federal funds according to criteria established by the Secretary.

ER projects shall be eligible for a Federal share of 100 percent for construction done within 90 days of the event. The cost of the project can not exceed the cost of a comparable facility. For work done after 90 days of the event the Federal Share shall be 75 percent for NHP projects, 100 percent for territorial and Federal lands projects, and 60 percent for all others.

Sec. 205, Allocation Of Federal Lands Highways Funds, amends 23 U.S.C. 202, without significant change. A provision is added to permit a deduction of up to three and three-fourth percent of the funds for administration. The public lands highways fund allocation has been deleted. The other Federal Lands programs continued are Forest Highways, Park Roads and Parkways, and Indian Reservation Roads.

Sec. 206, Administration Of Federal Lands Highways Funds, amends 23 U.S.C. 203 without significant change.

Sec. 207, Advance Construction, amends 23 U.S.C. 115. Advance construction is permitted for projects funded with NHP, Bridge, Urbanized planning or Statewide transportation planning and research funds.

Under advance construction States are allowed to proceed with the construction of projects without obligating funds. The States may request funds at a later time provided a project agreement has been executed and the project conforms to applicable standards. The amount of advanced funding that can be approved in a State is limited to the total of unobligated apportionments or earmarking in that State, plus expected apportionments or earmarking from

existing authorizations in that State, plus one additional year's apportionment or earmarking in that State. States will be paid interest at a rate to be determined by the Secretary on funds expended for advance construction.

Sec. 208, Acquisition of Rights-of-Way, amends the right-of-way revolving fund provisions of 23 U.S.C. 108(c), and incorporates new provisions concerning the early acquisition of rights-of-way.

The States are required to pay interest on funds advanced from the right-of-way revolving fund by the Secretary at a rate 2 percentage point less than the current value of funds rate. This rate is roughly equivalent to the U.S. Treasury bill rate. Interest is to be credited to the Highway Account of the HTF.

Use of the right-of-way revolving fund is restricted to NHP projects.

Under new provisions the Secretary is authorized to participate in costs of acquisition of property incurred by a State prior to Federal approval or authorization to proceed if the property is incorporated into the right-of-way of a NHP project. The provisions also give the Secretary that authority when the purpose is to preserve environmental or scenic values associated with construction of NHP projects, as in the case of wetlands land banking. To receive reimbursement the State must demonstrate to the Secretary that it has complied with the Uniform Relocation Assistance and Real Property Acquisition Policies Act, civil rights requirements, and has a State process which adequately addresses consideration of environmental impacts of

the various alternatives and that the property acquired under the provision did not influence the decision relative to the need for the project and the location of the project.

Sec. 209, High Cost Projects Fund, is funded by set asides from NHP authorizations for the fiscal years 1992, 1993, 1994 and 1995. Advances, at the appropriate Federal share, are to be made from the fund for large scale projects that increase capacity on the Interstate System or increase capacity on routes that connect directly to the Interstate System or that construct new access controlled multilane routes that connect directly to the Interstate System.

The Secretary will allocate funds with priority given to construction projects that provide for multi-state project integration, that are high cost in relation to a State's apportionment of NHP funds, that are ready to obligate, that will be completed expeditiously and where transportation or other public benefits outweigh their costs. These allocations shall not be used to convert advance construction projects.

The amounts advanced to a State may not exceed that State's estimated apportionment of NHP funds for the next 2 years. Advances will be repaid over the following three fiscal years based on an agreed upon schedule in the amount equal to the advance. Repayments are to made by either reducing the State's NHP apportionment in each of the following 3 years or, if the State elects, by direct repayment. Repayments are to be credited to the High Cost Projects Fund.

Sec. 210, Payments to States, a restatement of 23 U.S.C. 121, allows the Secretary to make progress payments to a State on projects based on costs incurred and credits for donations. No payment can be made unless a project agreement has been executed. No final payment can be made until completion of construction has been approved by the Secretary. Payments for construction engineering costs for other than Urban and Rural projects cannot exceed 15 percent of the cost of the project after excluding from the costs the costs of rights-of-way, preliminary engineering, and construction engineering.

Sec. 211, Payments on Projects Undertaken By A Federal Agency, is a restatement of 23 U.S.C. 132 without significant change.

Sec. 212, Private, State and Local Donations, amends 23 U.S.C. 323 and allows the value of privately-owned land, private funds, and State or locally-funded land that are donated for use on a project to be credited towards the State's matching share. The total credited may not exceed the State's matching share for the project. Under existing law the credit applies only to privately-owned land donated to a project. The section expands the credit to include private fund donations and State or locally-owned land that is donated and incorporated into the highway project. The fair market value of privately donated land will continue to be determined by criteria contained in existing law. The fair market value of State or locally-owned donated land will be established at the time it is agreed the land is needed for the project.

Fund or land donations may be made at any time during a project's development. If a donation is made prior to environmental clearance on a project, it is with the understanding that all alternatives to a proposed alignment will be considered and that the donation shall not influence the decision for the need to construct the project or the specific location selected.

Section-by-Section Analysis

Chapter 3 -- Program Administration

Title 23, United States Code

Sec. 301(a) Management Systems, Traffic Monitoring System, requires each State to have bridge, pavement, safety and congestion management systems. The Secretary will provide guidance through regulations on developing the four systems. Projects derived from the systems are eligible for the participation of NHP funds. Additional urbanized area planning requirements for developing the management systems in urbanized areas over 200,000 population, particularly the congestion management system, including the application, are included in 23 U.S.C. 114. These systems are in various stages of development in the States. Full development is expected to occur in stages with final implementation by 1995. In 1992, the States will have to demonstrate that they are developing systems and in later years, show that the systems are growing toward final implementation.

Each State is also required to have a statistically based Traffic Monitoring System meeting guidelines and requirements established by the Secretary. The Traffic Monitoring System will promote national uniformity and quality.

Sec. 302, Public Hearings, an amendment of 23 U.S.C. 128, requires public hearings for NHP projects. The hearings shall consider the project's economic, social, and environmental

effects and its consistency with local urban planning. The State transportation or highway department is required to prepare a record of the hearing and submit to the Secretary a certification that the hearing was held and the report on the effects of highway project and alternatives that were raised at the hearing or otherwise considered. This is a change from the current law which requires a transcript of the hearing rather than certification and a report.

Sec. 303, Standards, an amendment of 23 U.S.C. 109, requires that NHP projects accommodate future traffic and be designed to standards that provide for safety, durability and economy of maintenance before the Secretary can approve plans and specifications. Other requirements follow.

The Secretary is directed to work with the State transportation or highway departments and the American Association of State Highway and Transportation Officials to adopt geometric and construction standards for the NHS. In addition the Secretary is to consult with the Department of Defense relative to standards for facilities on the STRAHNET or its major connectors. A 20 year minimum design period is specified, to which the Secretary may approve exceptions. The Interstate System must have at least four through traffic lanes. Other NHP projects are to have a number of lanes adequate for the predicted future traffic. Standards adopted must be applied uniformly in all the States.

All traffic control device standards for public roads must be approved by the State transportation or highway department and the Secretary.

The approval of NHP and Federal Lands Program projects requires that traffic control devices at all railroad crossings or drawbridges on the projects must be in compliance with highway and railroad grade crossing standards established by the Secretary.

Soil erosion guidelines are required for minimizing soil erosion from highway construction. Guidelines shall be applied to all proposed Federal highway projects.

Development of Federal highway projects shall consider economic social and environmental effects including the adverse effects of air, noise, and water pollution; destruction or disruption of man-made and natural resources, aesthetic values, community cohesion and availability of public facilities and services; adverse employment effects, and tax and property value losses; injurious displacement of people, businesses and farms; and disruption of desirable community and regional growth. Guidelines for consideration of these effects have been developed by the Secretary in consultation with other Federal agencies and the States.

Highway noise level standards are required. Noise abatement projects, independent of other highway work, are eligible for NHP funding as long as they are not on highways that have already been constructed, i.e., they must be in conjunction with new projects. Projects may not be approved unless adequate measures to implement the guidelines are included.

Ambient air quality guidelines are required to be developed in cooperation with the Administrator of the Environmental Protection Agency to assure that Federal-aid highway projects are

in conformity with the requirements of the Clean Air Act and its amendments.

Before approval of a project in one State involving approaches to a bridge between two adjacent States, the views of the other State must first be fully considered.

Projects that sever or destroy an existing major route for nonmotorized transportation traffic or light motorcycles shall not be approved if no alternate route exists.

Design standards may be developed for non-freeway 3-R projects which are not necessarily the same as (usually less than) standards required for new construction and major reconstruction projects.

Sec. 304, Plans, Specifications and Estimates, amends 23 U.S.C. 106, to require, for projects identified by the Secretary, the State transportation or highway department to submit plans, specifications and estimates for approval. That approval will not create a contractual obligation of the United States. Entering into a project agreement will create a contractual obligation.

Construction engineering costs included in any estimate are limited to no more than 15 percent of the total estimated cost of a project after excluding right-of-way, preliminary engineering, and construction engineering costs from the total estimated cost.

Value engineering analysis is required when determined necessary by the Secretary.

Sec. 305, Alternate Project Procedures, replaces the Certification Acceptance procedures of 23 U.S.C. 117. Alternate project procedures allow projects that meet the categorical

exclusion criteria as defined in 23 CFR 771, that have an estimated cost of construction of less than $1,000,000, or cost over $1,000,000 and are administered according to criteria established by the Secretary, to be developed and constructed by the State under a certification that they will be built in the same manner as other NHP projects. All States shall incorporate projects into alternate project procedures by the end of fiscal year 1995. The specific requirement for a final inspection on each project is eliminated. Project acceptance will be based on an inspection process considered appropriate by the Secretary.

Sec. 306, Rights-Of-Way Agreements, an amendment to 23 U.S.C. 111 and 156, permits States to lease rest areas to providers of food and fuel services. Essentially, it allows the States to "sell" the right to use rest areas by commercial entities. If Federal funds are used to acquire the rest area, the State shall use a similar percentage of net income it receives from the lease for projects eligible for NHP funding. The section restricts access and exit from rest areas to ramps connecting with through traffic lanes, and requires any rest area selected for commercial use to retain as its primary function that of a rest area. Costs of accommodating commercial usage will not be eligible for Federal assistance in either existing or proposed facilities. Selection of rest areas will be in accordance with Secretarial standards.

States may place vending machines in rest and recreation areas, and safety rest areas.

Fair market value shall be charged for the use of right-of-way airspace except that the Secretary may waive, in whole or in part, the requirement to charge fair market value for use of airspace for social, environmental, and economic mitigation purposes, and except that a State may permit the use of airspace without charge for a governmental purpose, a public or private mass transit purpose, including high speed magnetic levitation systems, a utility accommodation purpose or for a transportation project eligible for assistance under title 23.

Sec. 307, Construction, amends 23 U.S.C. 114, to require that Federal-aid construction work on the NHS be undertaken by the State transportation or highway departments or under their direct supervision in accordance with State and applicable Federal laws. The section also modifies current restrictions concerning the erection of informational signs by the State transportation or highway departments. Modification will allow the States to erect funding and informational signing on projects on the NHS in accordance with standards developed by the Secretary. Further, the section continues the provisions prohibiting the use of convict labor in the construction of projects on the NHS. The restriction on convict produced materials is deleted to conform to current law.

Federal-aid construction work on other than the NHS is not required to be undertaken by the State transportation or highway departments. Informational signing on other than the NHS may be erected in accordance with State regulations or State transportation or highway department procedures, and

State transportation or highway departments may use convict labor on other than NHS projects if the use is in accordance with applicable State laws.

The section adds a provision which eliminates regulations prohibiting the State transportation or highway departments from incorporating warrantee/guarantee provisions into Federal-aid construction contracts. This added provision will allow more flexibility to the States in the use of warrantee/guarantee provisions for construction products or features so long as the warrantee/guarantee does not include requirements for routine maintenance of the product or feature.

Sec. 308, Letting of Contracts, restates 23 U.S.C. 112 with modification. For construction projects, plans and specifications shall be developed and the project advertised to assure competition. A preference for Indian contractors for contracts on Indian reservations is included. Requirements and exceptions for awarding construction contracts by competitive bidding to the lowest responsive/responsible bidder are continued as are contracting requirements for engineering and design service contracts. All winning bidders of construction contracts are required to submit a non-collusion statement. Contracts awarded by competitive bidding, other than Urban and Rural Program projects, shall receive the prior concurrence of the Secretary.

Sec. 309, Prevailing Rate of Wage, restates 23 U.S.C. 113 with modification. Laborers and mechanics shall be paid at wages not less than rates established by the Secretary of the Department of Labor (DOL) in accordance with the Davis Bacon

Act. This requirement will be applicable to highway projects with a cost of $250,000 or more. The DOL will make the predetermination of minimum wages to be paid laborers and mechanics. That predetermination will be set forth in each applicable projects' advertisement for bids, bid proposal form and contract. Employment under certified apprenticeship and skill training programs is exempted from the requirements of the section.

Sec. 310, Equal Opportunity, continues 23 U.S.C. 140(a). States must assure equal employment opportunities in their internal employment practices and those of their contractors. Where necessary, the States are expected to ensure that effective training programs are available which provide Equal Employment Opportunity (EEO). The States and the Secretary of Labor are required to provide information needed and to assist the Secretary to meet objectives. The Secretary is authorized to fund programs to train and enhance the skills of participants to increase opportunities in the highway construction industry in crafts in which minorities and women have been historically under represented. Wages paid to Trainees in programs which are found to provide EEO, are not subject to the Davis-Bacon prevailing wage rates.

Section 337 of the 1990 Department of Transportation and Related Agencies Appropriations Act (Pub. L. 101-164) authorized the optional use of one-fourth of one percent of regular Federal-aid funds apportioned to a State to be used for on the job training supportive services efforts for the fiscal years 1990 and

1991. That funding option is extended to include fiscal years 1992 through 1996. Also, the Secretary may set aside up to $10 million from these apportionments to administer highway construction training.

The Secretary is also authorized to deduct no more than $10,000,000 per year for services and activities which contribute to the eventual self-sufficiency of certified firms participating in DOT's DBE program. The term "disadvantaged business" has been substituted for "minority business," in keeping with the terminology in the 1982 Surface Transportation Assistance Act and the 1987 Surface Transportation and Uniform Relocation Assistance Act.

Current law regarding Indian employment is continued. The applicability of section 703(i) of the Civil Rights Act of 1964 to work on Indian Reservation Roads, is reinforced. The Secretary is required to cooperate with State and Indian tribal governments to meet objectives. The intent of Congress to address Indian preference in contracting on Indian Reservation Roads contracts is addressed in an exception to the competitive bidding requirements of 23 U.S.C. 308.

Provisions of 23 U.S.C. 324, prohibiting discrimination on the basis of sex in all programs or activities of recipients of Federal highway funds are continued. The provision parallels title VI of the Civil Rights Act of 1964 and is enforced through regulations which implement title VI.

Sec. 311, Utility Facilities, amends 23 U.S.C. 123. Less restrictive than existing law, the section allows Federal highway

funds to be used to reimburse the State for the cost of utility relocations necessitated by a Federal-aid highway project. The section also continues definitions of the terms "utility" and "cost of relocation".

Sec. 312, Maintenance, amends 23 U.S.C. 116. The State transportation or highway department shall preserve, through maintenance processes, projects on the NHS which have been constructed with the aid of Federal funds. The section also allows the State transportation or highway departments to enter into an agreement with a municipality to carry out maintenance responsibilities. The section has been expanded to allow the State transportation or highway departments to enter into an agreement with an Indian Tribe to carry out the State transportation or highway department's maintenance responsibilities. Further, the section continues the provisions for the Secretary to impose sanctions, through the withholding of project approvals, on a finding that projects are not being properly maintained. A specific requirement pertaining to the Interstate System has been added. If it is found that the State is not adequately maintaining its Interstate System highways, the Secretary will require the State to program amounts needed from its NHP apportionments to bring the Interstate System up to adequate condition and keep it in that condition.

The section is applicable only to the NHS and relieves the State transportation or highway departments of responsibilities to maintain projects which are not on the NHS, whether or not these projects were constructed with the aid of Federal funds.

Sec. 313, Parking; Special Vehicle Routes; Buses; Transit, Rail, High Speed Ground Transportation, Magnetic Levitation Facilities; and Carpools, amends 23 U.S.C. 137, 142, 146, and 149. It allows the Secretary to approve carpool and other publicly owned parking facilities; exclusive or preferential high occupancy vehicle (HOV), truck, bus and emergency vehicle routes or lanes; intercity and urban bus passenger loading areas and facilities; fringe and transportation corridor parking facilities to serve HOV, intercity bus and public mass transportation passengers; and carpool projects as NHP projects. The section also establishes requirements covering eligibility criteria, coordination during project development, agreements on financing, maintenance, and operation of facilities, design standards to be used, and charging of fees, most of which are essentially the same as those found in the existing law. One change is that fees charged for parking may be in excess of that needed for the maintenance and operation of a parking facility provided the excess revenue is used for title 23 programs.

The section also allows the Secretary to authorize a State to make rights-of-way of the NHS available, without charge, to a publicly or privately-owned mass transit authority or company to accommodate a needed rail or nonhighway public mass transit facility in cases where the accommodation can be accomplished without impairing automotive safety of future highway improvements. Existing 23 U.S.C. 142(g) provides for use by a publicly owned mass transit authority only. The change will permit the use of right-of-way without charge by a privately-owned

high speed ground transportation or magnetic levitation transit system.

Sec. 314, Bicycle Transportation and Pedestrian Walkways, is an amendment of 23 U.S.C. 217. The section makes pedestrian walkways and bicycle routes eligible for title 23 funds. Funds may be used for bicycle and pedestrian projects in corridors. Projects must be located and designed according to an overall plan which considers safety and contiguity of routes and all projects shall be principally for transportation purposes rather than recreation purposes.

Whenever a bridge deck is being rehabilitated using Federal funds and bicycles are allowed to operate at each end, upon completion of the rehabilitation or replacement project, the bridge must safely accommodate bicycles if the accommodation can be done at a reasonable cost.

Federal Lands Highway Funds are available for construction of pedestrian walkways and bicycle routes in conjunction with the construction of roads, highways, and parkways.

Motorized vehicles are not allowed on the trails and walkways authorized by this section except for maintenance purposes. Where State and local regulations permit, trails and walkways may be used by snowmobiles.

Urban and Rural Program funds can be used for the construction of pedestrian walkways and bicycle routes off the NHS and off roads functionally classified as local or rural minor collector.

Sec. 315, Landscaping, Scenic Enhancement, Rest Areas and Wildflowers, amends 23 U.S.C. 319. Federal-aid funds are eligible for landscaping, rest areas, and scenic strips of land adjacent to highways. Vegetation that could become a hazardous roadside obstacle is prohibited.

At least one quarter of one percent of the cost of a landscaping project shall be used for planting native wildflowers except where planting areas are not available or are otherwise being used for agricultural purposes or where conditions exist that do not permit wildflowers to be satisfactorily grown. A State may accept seeds donated by civic or other organizations or individuals.

Sec. 316, Policy on Parklands, Wildlife and Waterfowl Refuges, Historic Sites, continues 23 U.S.C. 138. The wording is revised to parallel the wording of 49 U.S.C. 303. No change in procedures is intended. This section establishes a national policy to preserve the natural beauty of the countryside, public park and recreation lands, waterfowl and wildlife refuges and historic sites. It requires cooperation with other Federal agencies in the development of plans and programs to maintain and enhance the natural beauty of lands crossed by transportation projects. It also prohibits approval of projects that use land from public parks, recreation areas, refuges and historic sites unless there is no feasible and prudent alternative.

Sec. 317, Wetlands, is a new provision which would enable State transportation or highway departments to participate in the mitigation of wetland impacts for multiple projects in advance of

highway construction. The mitigation could be in the form of creating new wetlands or monetary contributions to Statewide programs. Current statutes limiting wetland mitigation to a project-by-project basis as an element of normal project costs often render the creation of new wetlands impractical.

Sec. 318, Project Litigation Expenses, is intended to make litigation expenses that are imposed by the Equal Access to Justice Act, and that are incurred in connection with the development of a project authorized by title 23, a part of the total cost of the project. The litigation costs are legitimate costs of project development and would be made part of the overall project cost. The Federal share of these litigation costs would be 100 percent.

Sec. 107, Chapter 6 of Title 23, adds chapter 6, General Provisions, to Title 23, United States Code.

Chapter 6

General Provisions

Title 23, United State Code

Sec. 601, Rules, Regulations, And Recommendations, restates 23 U.S.C. 315. The Secretary may carry out needed rulemaking and may make recommendations to the States and to the Congress to ensure the preservation and safety of highways.

Sec. 602, State Transportation or Highway Department, restates 23 U.S.C. 302. The States are required to have transportation or highway departments adequate to carry out title 23.

Sec. 603, Relief Of Employees In Hazardous Work, restates 23 U.S.C. 314. DOT appropriations may be used in an emergency for medical supplies and devices needed for the relief of FHWA employees engaged in hazardous work.

Sec. 604, Federal-State Relationship, restates 23 U.S.C. 145. States have the right to select projects that will be Federally financed.

Sec. 605, Acquisition Of Right-of-Way, restates 23 U.S.C. 107 and permits a State to request the Secretary to pursue Federal condemnation of lands and interests necessary for a NHP project when it has been determined by the Secretary that the State is

either unable to acquire the necessary lands and interests, or is unable to acquire with sufficient promptness.

Sec. 606, Appropriation For Highway Purposes Of Lands Or Interests In Lands Owned By The United States, restates 23 U.S.C. 317 and provides the Secretary with a process for obtaining lands or interests in lands administered by another Federal Department except where the Secretary of that Department certifies within a four month period that the appropriation is contrary to the public interest or inconsistent with the purpose for which the land or interest has been reserved; or except where there has been an agreement under mutually satisfactory conditions.

Sec. 607, Consent By United States To Conveyance Of Property, restates 23 U.S.C. 316. A railroad or canal company may transfer property, previously acquired by grant from the United States, to a State transportation or highway department without further consent by the Federal government.

Sec. 608, Participation By Small Business Enterprises, restates 23 U.S.C. 304. The Secretary shall assist small businesses to obtain contracts related to the highway program.

Sec. 609, Archeological And Paleontological Recovery, continues 23 U.S.C. 305. The section permits funds to be used for proper recovery of archeological data. This section predates and has been augmented by the National Historic Preservation Act of 1966. Section 609 goes beyond the National Historic Preservation Act by specifically permitting funds to be used for the recovery of paleontological (fossil) materials.

Sec. 610, Defense Access Roads, restates 23 U.S.C. 210, which contains authority for the Secretary to assist the Secretary of Defense in providing for the impacts of Department of Defense needs on public highway facilities. Funds for this program are included in DOD budgets and appropriations. The FHWA provides engineering advice and assistance to DOD in determination of access road needs and in administration of projects, when certified as important to National defense by DOD.

Sec. 611, Highway Improvements Strategically Important To The National Defense, restates 23 U.S.C. 311. It continues the policy of permitting funds made available to FHWA for administrative purposes from highway authorizations to be used for engineering costs (project development, design and construction engineering) for urgent improvements of highways strategically important from the standpoint of national defense. Use of the funds for this purpose must be requested by the Secretary of the Defense and ordered by the Secretary. If the Secretary determines that it is necessary, and a State consents, funds apportioned to a State may also be used for this purpose. The Secretary also may give priority approval to projects important to the national defense.

Sec. 612, Civil Defense, restates 23 U.S.C. 310. The language has been updated to require the Secretary to consult with the Federal Emergency Management Agency rather than the Federal Civil Defense Administrator on civil defense aspects of highways.

Sec. 613, Cooperation With Federal And State Agencies And Foreign Countries, restates 23 U.S.C. 308 and allows the

performance of engineering services for foreign countries and other government agencies.

Sec. 614, Detail of Army, Navy, And Air Force Officers, restates 23 U.S.C. 312 and permits the temporary detail of military officers to the FHWA.

Sec. 615, Alaska-Canada International Highway, restates 23 U.S.C. 218 and allows the use of Federal funds for reconstruction of the Alaska-Canada International Highway from the Alaska border south to Haines Junction in Canada and the Haines Cutoff Highway to the south Alaska border. The section provides that expenditures be made pursuant to the agreement with the Government of Canada and defined by this section. The section further directs the Secretary to supervise the design and reconstruction of the highway.

Sec. 616, Forest Development Roads And Trails, restates 23 U.S.C. 205 and allows the Secretary of Agriculture to build and maintain roads on lands controlled by the Forest Service. The cost level per mile above which projects must be advertised is changed from $15,000 to $50,000. The change reflects inflated forest development road costs.

Sec. 617, Public Lands Development Roads And Trails, restates 23 U.S.C. 214.

Sec. 618, Condition, Performance, Needs Report, revises the needs report requirements of 23 U.S.C. 307 (f) to include bridge as well as highway needs, and to include information on the condition and performance of the existing system. Additionally, beginning with the report due January 1995, the report is to

include the results of studies on the air quality impacts of transportation programs including air quality benefits realized from transportation control measures required under the Clean Air Act.

Sec. 108, Policy on Parklands, Wildlife and Waterfowl Refuges, and Historic Sites, makes a technical amendment to 49 U.S.C. 303, changing the number of a cited section.

Sec. 109, Special Provisions for Outdoor Advertising And Junkyards, provides for the withdrawal of unexpended funds available to carry out 23 U.S.C. 131 and 136 on September 30, 1991 and provides that any State that is not in compliance with 23 U.S.C. 117, Junkyards and 23 U.S.C. 116, Outdoor Advertising, by the end of the first regular legislative session in the State which is convened after October 1, 1991 is not exercising effective control. Funds that have been obligated, where the State has acted on the obligation, will not be withdrawn.

Sec. 110, Functional Reclassification, provides for a effort to complete a functional reclassification of all public roads by September 30, 1992. The final deadline is September 30, 1993. This time schedule is in concert with the dates by which the NHS will be designated. The functional reclassification, which will be completed in accordance with guidelines issued by the Secretary, will provide the basis for designating the NHS and will be updated periodically. A functional classification of all public roads was initially required by the Federal-Aid Highway Act of 1973 prior to a designation of the Federal-aid systems along functional lines in 1976.

Sec. 111, Bridge Management System And Level Of Service Criteria, provides for the Secretary to establish level of service criteria for the Bridge Program by January 1, 1992. It also provides for setting minimum requirements and a phase-in schedule for a Bridge Management System (BMS) by January 1, 1992. The level of service criteria are target values against which bridge characteristics are to be compared. The values vary by highway system or functional classification. Using the comparison, bridges can be categorized as needing or not needing rehabilitation or replacement. Minimum requirements for a Bridge Management System will be established to let States know the extent and time frame required as they develop systems for the optimal use of funds for maintenance, repair, rehabilitation or replacement of bridges.

Sec. 112, Toll Facility Agreements, provides that toll facility agreements, reached before October 1, 1991, to restrict the imposition of tolls on facilities constructed with Federal funds may be amended to continue tolls pursuant to 23 U.S.C. 105(e).

Sec. 113, Use Of High Occupancy Lanes By Motorcycles, repeals the requirements of sec. 163 of the Surface Transportation Assistance Act of 1982. The repeal will eliminate the requirement that States using Federal-aid funds for a construction or resurfacing project having a carpool lane must allow motorcycles to use the carpool lane.

Sec. 114, Demonstration Projects, Railroad-Highway Crossings, repeals section 163 of the Federal-Aid highway Act of 1973 and

thus terminates the Railroad-Highway Crossing demonstration projects.

Sec. 115, Effective Date, provides an effective date for title I of the STAA of October 1, 1991.

Sec. 116, Innovative Projects, requires the Secretary to conduct experimental programs to demonstrate/evaluate innovative and/or non-traditional design, construction, materials and management practices. This proposed Innovative Programs amendment will authorize the FHWA to demonstrate/evaluate those innovative and/or non-traditional design, construction, materials and management practices which State transportation or highway departments or the FHWA may propose to undertake. In all instances the competitive bidding process will be maintained.

Project construction costs will be eligible for reimbursement commensurate with the system on which the project is located subject to normal Federal-aid eligibility requirements.

Sec. 117, Transit Projects, provides that funds made available for transit projects under this Act or under title 23, United States Code shall be transferred to and administered by the Federal Mass Transportation Administration.

Sec. 118, Clean Air Provisions, lists the provisions in the Federal Highway Act of 1991 that will help effect clean air. Operational improvements and startup costs for traffic management and control would be eligible under the NHP and URP. The research and technology program will enable states to assess environmental impacts and the effectiveness of various mitigation strategies. Urbanized areas would be required to consider long-range land use

plans, development objectives and overall social, economic and environmental impacts of projects. Urbanized area planning would be coordinated with the development of the transportation portion of the state air quality Implementation Plan. Projects in urbanized areas with a population of 200,000 or more that would significantly increase the vehicle carrying capacity of a transportation corridor would have to be consistent with the congestion management system. The bill continues to allow the acquisition of land for the construction of carpool and other publicly owned parking facilities, and make HOV lanes eligible for federal-aid. It also allows the Secretary to authorize a State to make rights-of-way available without charge to a publicly or privately owned mass transit authority for transit, rail, high speed ground transportation and magnetic levitation facilities. Congestion pricing measures would be allowed on specific highway facilities or routes in areas with a population of one million or more that are experiencing significant air quality nonattainment problems. Projects for bicycles and pedestrians would be eligible under the NHP, the URP and the Federal Lands Highway Program.

Sec. 119, Temporary Matching Fund Waiver, permits the waiver of the State matching share for title 23 United States Code for the fiscal years 1992 and 1993. State shares waived must be fully repaid by March 30, 1994 or they will be deducted from the States fiscal year 1995 and 1996 apportionments and apportioned to other States. There will be a limit on the amount of increased Federal share: 25 percent of the total 1992 apportionments will be allowed in each of FY 1992 and FY 1993.

Sec. 120, Metric System Signing, repeals section 144 of the Federal-aid Highway Act of 1978 which prohibits metric only signs.

Sec. 121, Obligation Ceiling, establishes obligation limitations in each of the fiscal years 1992, 1993, 1994, 1995 and 1996 for Federal-aid highway. After setting aside from the limitation amounts corresponding to administrative expenses, Federal Lands programs, Safety Bonus, and Metropolitan and Rural Innovative projects, each State will receive a share of the remaining limitation in proportion to its share of total apportionments. There will be a further limit on obligations allowed in the first quarter of each fiscal year.

Sec. 122, Conforming Amendment, provides an amendment to assure that there is no overlap between the emergency assistance provided by FEMA under the Stafford Act and the emergency relief provided by FHWA under title 23, United States Code.

Section-By-Section Analysis

Title II

Highway Safety Act of 1991

Sec. 201, Short Title, provides that title II may be cited as the "Highway Safety Act of 1991".

Sec. 202, Authorization of Appropriations, contains six subsections.

Subsection (a) would authorize appropriations, out of the Highway Account of the HTF, for FHWA's 23 U.S.C. 402 program and a setaside for the 23 U.S.C. 402(h) Safety Bonus Program.

Subsection (b) would authorize appropriations, out of the Highway Account of the HTF, for NHTSA to carry out section 402 State and Community Highway Safety Grant Programs under title 23, United States Code. Although this provision does not continue the prior practice of earmarking 402 funds for various purposes, there is a setaside from the authorization for the 23 U.S.C. 402(h) Safety Bonus program.

Subsection (c) would authorize appropriations, out of the Highway Account of the HTF, for NHTSA to carry out section 403 highway safety research and development activities under title 23, United States Code. These authorizations would provide the necessary additional funds to carry out the Department's National Transportation Policy commitment to devote additional resources to highway safety research and development, including programs to improve highway safety through human factors research, new

initiatives such as intelligent vehicle-highway systems, a comprehensive assessment of the agency's data needs and the data priorities of the highway safety community, public information, programs, and the expansion of university research and training.

Subsection (d) would authorize appropriations, out of the Highway Account of the HTF, for NHTSA to carry out the National Driver Register (NDR) program under title 23, United States Code. The NDR is in a multi-year transition to an electronic, interactive operation, as authorized by the NDR Act of 1982, to assist State driver licensing administrations, National Transportation Safety Board and Federal Highway Administration accident investigations, employers of drivers of motor vehicles, rapid rail, light rail and railroad operators, and to support Federal Highway Administration, Federal Railroad Administration, Federal Aviation Administration, and Coast Guard operator licensing provisions. The requested level of funding reflects the costs required for an effective, advanced National Driver Register system. Moreover, while the General fund has provided the funds needed to carry out the developmental stage of the new NDR, the program is now operating at a level that clearly benefits highway users. In keeping with the Department's policy that programs with identifiable users be funded as much as possible through user fees, we believe that support of the NDR should be shifted to the Highway Trust Fund.

Subsection (e) would authorize appropriations, out of the Highway Account of the HTF, for NHTSA to carry out the National

Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1381, et seq.).

Subsection (f) would authorize appropriations, out of the Highway Account of the HTF, for NHTSA to carry out the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.).

Sec. 203, Chapter 4 of title 23, would establish a new chapter 4, Safety, which is divided into two subchapters (Subchapter A, Highway Safety; Subchapter B, Safety Construction), as the successor to the existing chapter 4, Highway Safety. In content, the new chapter represents an amalgam of long-established provisions of highway safety and highway safety construction law, provisions from the Federal-aid highway laws applicable to the highway safety program, and several new provisions of concern to the Department. Although a first reading of the proposed chapter 4 will disclose many structural and editorial changes, most of its provisions are substantively identical to existing provisions.

Several sections of subchapter A should be noted. The National Minimum Drinking Age and the National Maximum Speed Limit provisions under the existing chapter 1 are moved to subchapter A. The National Driver Register Act of 1982, which is now a note under section 401, is codified as a new section. The uncodified provision, "Reports of Highway Traffic Accidents," which was enacted as a section of the Highway Safety Act of 1966, is codified as a new section. Existing provisions relating to School Bus Driver Training and Innovative Project Grants are no longer applicable and are repealed by omission. The National Highway Safety Advisory Committee, which has been deactivated by Congress

since October 1986, also would be repealed by omission. This proposal is based on the recommendation of the Department's Advisory Committee Review Panel, which carefully examined the National Highway Safety Advisory Committee's mission, meetings and accomplishments, membership and cost to the Government. The availability of many other sources of information and opinion relating to highway safety at no cost to the Government makes the continuance of an advisory committee for highway safety unnecessary. Finally, a new section, Alcohol Safety, provides authorizations for bonus funds to States that take specific actions to advance highway safety within the framework of the section 402 program. These authorizations would be distributed, as provided in section 402(h), to eligible States that meet criteria under section 402(h), including criteria for basic and supplemental grants under sections 408 and 410 of title 23, United States Code, in effect on September 30, 1991, as implemented in regulations in effect on September 30, 1991.

The provision relating to the National Bridge Inspection Program under the existing chapter 1 is moved to subchapter B. The provision prohibiting the use of reports and surveys as evidence in Federal or State courts is continued in subchapter B.

The following analysis describes these and other changes in greater detail.

Section-By-Section Analysis

Subchapter A -- Highway Safety

Chapter 4 -- Safety

Title 23, United States Code

Sec. 401, Authority Of Secretary, is largely identical to the existing section 401. It provides authority and defines the term "State". The original mandate to the Secretary is as valid now as when it was first issued in 1966, and the bill does not, with one exception, propose to change it. The one change proposed is to insert language that identifies the increase in highway safety with an improvement in public health. The continuing tragic toll on the Nation's highways clearly warrants such an acknowledgment. This amendment would have no funding implications.

Sec. 402, Highway Safety Programs, is an amendment of section 402 of title 23, United States Code. The section continues the existing State and Community Highway Safety Program administered by the NHTSA and the FHWA. Section 402 continues to be the keystone of the State and community highway safety program. The uniform guidelines issued by the Secretary under the existing section 402 are maintained. The Department believes these guidelines, which formulate the scope and contents for all highway safety activities, are critical to the success of the States' programs. The existing periodic rulemaking provision in section 402, which identifies and keeps current the most effective safety programs for Federal financial assistance, is also continued. The

Department believes this provision will ensure that the States' core programs meet the needs of their changing highway safety environments. A new subsection (h), Safety Bonus, (described below in detail), will encourage the States to set specific goals and take specific actions to advance highway safety within the framework of the section 402 program. The Department expects this new subsection, which incorporates the President's goals for highway safety, will give new momentum to the section 402 program.

It should be noted that certain restrictive or obsolete provisions have been deleted; program approval requirements have been continued; and funding and procedural requirements formerly contained in chapter 1 of title 23, United States Code, are placed in section 402.

Eight substantive changes are made to the existing section 402. The first would add a new paragraph (3) to subsection (b) to require the States to coordinate the highway safety program under this section with the motor carrier safety plan, developed under the proposed section 507(c)(4) of this title. This provision, together with a corresponding proposal in the motor carrier safety program, would ensure that the States coordinate these two safety programs.

The second substantive change would add a new paragraph (4) at the end of the subsection (b) to require the States to submit to the Secretary such speed-related data as the Secretary determines by rule is necessary on citations and travel speeds on public highways with speed limits posted at or above fifty-five miles per hour. This data collection provision, which

represents a continuation of existing authority in the National Maximum Speed Limit law (23 U.S.C. 154(e)), would be supplied on a fiscal year basis to support the highway safety activities of this section.

The third substantive change would add a provision to section 402(c) to ensure that the calculation of the section 402(c) apportionment with respect to Indians includes the Indian population in all identified areas. Currently, section 402(i) limits the application of the 402 program to the Indian population on reservations. However, Indians residing in identified areas other than reservations, such as tribal trust lands (off reservations), the historic areas of Oklahoma (excluding urbanized areas), and Alaska Native villages have been Federally recognized by the Department of Commerce's Bureau of the Census, the Department of the Interior's Bureau of Indian Affairs and sanctioned for grant-in-aid program participation by the Office of Management and Budget. Accordingly, we believe the Indian population in these areas also should be included in the calculation of the section 402(c) highway safety apportionments. While this change would increase the count of the Indian population for section 402 apportionment purposes, it would not, at present, increase the apportionment to the Indians above the section 402(c) minimum apportionment threshold (1/2 of 1 percent).

However, the fourth substantive change, which also changes section 402(c), would increase the minimum apportionment threshold to the Indians, from one-half of 1 percent to 3/4 of

1 percent. Given the increase in the count of the Indian population for section 402 purposes and the ineligibility of Indian lands for section 402(h) bonuses, an increase in the minimum apportionment to the Indians is clearly warranted.

The fifth substantive change would amend section 402(d) by eliminating all references to chapter 1 and the Federal-aid primary program from the section, and incorporating the Federal share payable requirements applicable to the Federal-aid primary program found in the current chapter 1, that section 402(d) makes applicable to the highway safety program. The revision of section 402(d) is required due to the proposed repeal and restructuring of the highway program under title I of this bill.

The first sentence of subsection (d)(1) would specify the Federal share payable of any program financed with funds granted to a State under this section, subject to the exceptions that follow, of 60 percent of the total program costs, a reduction from the existing 75 percent. The second sentence of subsection (d)(1) would eliminate the references to chapter 1 and the Federal-aid primary program and restate the remainder of the current subsection (d). Accordingly, this sentence would provide that 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) would be available for crediting the State during the fiscal year for the non-Federal share of the cost of any highway safety program (other than one for planning or administration). This accounting procedure would be available

without regard to whether the expenditures were actually made in connection with the program except that, in the case of a local highway safety program carried out by an Indian tribe, the Secretary may increase the Federal share of the cost payable under this subsection to the extent necessary, 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 the program.

If the percentage of a State's total area occupied by nontaxable Indian lands (individual or tribal), public domain lands (reserved or unreserved), exclusive of national forests, and national parks and monuments exceeds 5 percent, subsection (d)(2) would allow the Secretary to increase the Federal share of the cost payable under this subsection by a percentage equal to the percentage of the State's total area occupied by such lands, but not to more than 95 percent. This provision would adapt the Federal share payable requirements applicable to States containing the enumerated nontaxable lands found in the current section 120 of title 23, United States Code, that the existing section 402(d) makes applicable to the highway safety program.

Subsection (d)(3) would provide a Federal share payable of 100 percent of the total cost of any highway safety program under this section in the Virgin Islands, Guam, American Samoa or the Commonwealth of the Northern Mariana Islands. This provision is currently found in the current section 120 of title 23, United States Code, and is made applicable to the highway safety program through section 402(d).

The sixth substantive change would amend section 402(i) (now section 402(f) of the revision) to reduce the percentage of the Secretary of the Interior's apportionment that must be expended by the Indian tribes from the current 95 percent to 90 percent, to allow for adequate planning and administration, program oversight and problem identification by the Bureau of Indian Affairs. The Indian highway safety program covers more than 400 tribes across the country. This geographical spread makes program management and development unusually difficult and time consuming. To ensure that highway safety funds are used effectively and to encourage locally supported activities, some additional administrative funds are necessary. In fiscal year 1990, the apportionment to the Secretary of Interior under section 402(i) totaled $623,062.

The seventh substantive change would amend section 402 of title 23, United States Code, to incorporate, under a new subsection (g), the accounting requirements applicable to the Federal-aid primary program found in chapter 1 of title 23, United States Code, that the existing section 402(d) makes applicable to the highway safety program. This new subsection is required due to the proposed repeal and restructuring of the highway program under title I of this bill.

Subsection (g)(1), which concerns the availability of section 402 funds, would provide that on October 1 of each fiscal year, the Secretary, after making the 5 percent deduction for the costs of administering the section 402 program authorized by section 402(c), shall apportion the remainder of the funds authorized to the States to conduct their highway safety programs for the fiscal

year. Once apportioned, the section 402 funds would remain available for obligation in a State for three years after the end of the fiscal year for which the funds are authorized. Any of the apportioned amounts not obligated at the end of this period would lapse.

Subsection (g)(2), which concerns the obligation of section 402 funds, would provide that the Secretary's approval of a State's highway safety program, in whole or in part, under section 402 shall be deemed a contractual obligation of the Federal Government to pay its proportional contribution for the program, effective upon the apportionment of funds under subsection (g)(1).

Subsection (g)(3), which concerns the payment of section 402 funds to the States, would provide that the Secretary shall make payments to a State for the costs it incurs under the section 402 program. These payments would be limited to the Federal share of the costs the State incurs as of the date of the State's voucher.

The eighth and last substantive change would amend section 402 of title 23, United States Code, to provide a new subsection (h) to award bonus funds to States that take specific actions, both statutory and programmatic, to advance highway safety within the framework of the section 402 program. Such funds are provided, for example, to States that meet a broad array of essential safety needs, including the impaired-driving countermeasures contained in the statutory criteria for basic and supplemental grants under sections 408 and 410 of title 23, United States Code, respectively, in effect on September 30, 1991.

Subsection (h)(1) (Safety Bonus: General Authority) would provide that subject to the provisions of this subsection, the Secretary will award safety bonus funds to States that take specific actions to advance highway safety. Recipient agencies designated by the Governors of each qualifying State would be required to use the funds for any purpose authorized by title 23, provided that not less than $75 million of the funds in each of fiscal years 1992-1996 are administered in accordance with section 402(b)(1) and expended for highway safety purposes authorized under section 402(a), of which a total of at least $25 million in each fiscal year would have to be spent to implement alcohol safety programs.

Subsection (h)(2) (Federal Share) would provide that the Federal share a State receives under this section in any fiscal year will not exceed 60 percent of the cost of implementing any purpose authorized by this title.

Subsection (h)(3) (Eligibility for Alcohol, Safety Belt Use and Fatality Rate Bonuses: Fiscal Years 1992-1996) would provide for separate alcohol, safety belt use and fatality rate bonuses in fiscal years 1992-1996. On October 1 of fiscal years 1992-1996, a State would be eligible for safety bonuses for meeting the following criteria: (1) the criteria for basic and supplemental grants under sections 408 and 410 of title 23, United States Code, respectively, in effect on September 30, 1991, as implemented in regulations in effect on September 30, 1991; (2) in fiscal year 1992, having a State law requiring safety belt use by the occupants of front outboard seating positions in passenger cars

and light trucks, and in fiscal years 1993-1996, either having that State law or meeting criteria established by the Secretary for having at least 70 percent of the occupants of front outboard seating positions in passenger cars and light trucks wearing safety belts; and (3) having a highway fatality rate that is at least 10 percent below the national fatality rate for the most recent two years for which data are available, or that has declined so that the State's average rate for the most recent two years is at least 10 percent below its average for the previous three years.

Subsection (h)(4) (Eligibility for Safety Bonuses: Fiscal Years 1993-1996) would provide that, on October 1 of fiscal years 1993-1996, a State will be eligible for a safety bonus for meeting the criteria of (h)(3) and for meeting additional criteria established by the Secretary to advance highway safety. The Secretary would establish the criteria, by rule, in cooperation with the States, political subdivisions, appropriate Federal departments and agencies, and other appropriate public and nonprofit organizations, and would be further authorized to issue, amend, and revoke rules as may be necessary to carry out the provisions of this section. The criteria would consist of: (1) programs that emphasize pedestrian and bicycle safety, including identification of problem locations and target populations, and development of comprehensive implementation plans, including engineering, enforcement and education countermeasures; (2) heavy truck safety regulations that are consistent with interstate trucking regulations; (3) a motorcycle safety program designed to

reduce deaths and injuries from motorcycle crashes; (4) provision for a lead agency at the State level that has adequate powers and is suitably equipped to identify, categorize and coordinate the resources needed to operate and implement an effective emergency medical services system; (5) programs for public information and education on significant highway safety problems, such as speeding and other high-risk behavior, including materials addressing high-risk road users, operations and situations; and (6) programs that include the collection and analysis of uniform crash data elements identified by the Secretary covering essential road use, vehicle and highway environment crash characteristics.

Subsection (h)(5) (Safety Bonus Credits) would assign a credit value to each criterion described in (h)(3) and (h)(4), as follows: (1) for the criteria under (h)(3)(A), not to exceed four credits--one and one-half credits for meeting the criteria for a basic grant under section 408; one credit for meeting at least 12 of the criteria for a supplemental grant under section 408; one credit for meeting the criteria for a basic grant under section 410; and one-half credit for meeting at least two of the criteria for a supplemental grant under section 410; (2) one credit for meeting the safety belt criterion under (h)(3)(B); (3) one credit for meeting the fatality rate criterion under (h)(3)(C); and (4) one credit each for meeting any criterion under (h)(4).

Subsection (h)(6) (Amount of Safety Bonus) would establish the steps for calculating each State's safety bonus, as follows: (1) determine the State's credits under (h)(5); (2) multiply the State's credits by the State's apportionment percentage under

section 202(c)(2)(D), as determined by the Secretary; (3) divide the product obtained in the second step by the sum of such products for all States; and (4) multiply the quotient of the third step by the total bonus funds available for the fiscal year to determine the State's bonus.

Subsection (h)(7) (Applications, Determinations and Distributions) would require the States to apply to the Secretary for any bonus funds by October 1 of the fiscal year for which bonus funds are available, except for fiscal year 1992. Not later than November 30 of the fiscal year for which bonus funds are available, the Secretary would be required to make a final determination of each State's eligibility for bonus funds, and not later than December 31 of the same year, would be required to distribute the bonus funds to eligible States. The Secretary also would be authorized to establish any necessary procedures for the application and distribution of bonus funds and for appropriate State consultation regarding decisions of eligibility.

Subsection (h)(8) (Availability) would provide that the funds to carry out this section from the Highway Account of the Highway Trust Fund will be available for obligation on October 1 of the fiscal year for which they are authorized. The provisions of section 402 would apply to the portion of each State's bonus funds for any fiscal year used for section 402 purposes. Bonus funds awarded to a State would remain available for obligation in that State until expended.

Subsections (h)(9), (h)(10), and (h)(11) would establish accounting procedures applicable to this section.

Subsection (h)(12) would require the Secretary to report periodically to the Congress on the States' efforts to qualify for safety bonus funds. In addition to meeting the criteria of (h)(3) and (h)(4), States receiving bonus funds would be required to evaluate highway safety programs conducted under section 402 in accordance with criteria to be issued by the Secretary.

Section 402 also contains five nonsubstantive changes that should be noted: (1) existing section 402(a) is renumbered as section 402(a)(1); (2) existing section 402(e) is incorporated in section 402(a)(1); (3) existing section 402(f) is repealed by omission; (4) the first part of existing section 402(i) is amended to conform to the amendment proposed to section 402(c) (which counts the population of Indians in all identified areas) and, to clarify the meaning of subsection 402(c)(3), is moved to the end of section 402(c)(3); and (5) existing section 402(j) is restated and renumbered as section 402(a)(2).

Sec. 403, Highway Safety Research and Development, amends section 403 of title 23, United States Code. The section continues the existing highway safety research and development program administered by the Secretary. It also includes an amendment to incorporate into section 403 the relevant research and planning provisions of the existing section 307 of title 23, United States Code, which are revised under section 110 of the new title 23, and activities related to Intelligent Vehicle Highway Systems, in accordance with section 110(c) of the new title 23. Section 403 funds may continue to be used for activities previously funded under the section. These activities may, in

some cases, be merged with activities covered by the new Research and Technology Program in chapter 1 of title 23. This section also would repeal the expired authorizations for demonstration projects with respect to the administrative adjudication of traffic infractions and driver education programs under the existing sections 403(e) and (f), respectively, of title 23, United States Code, which were provided in the mid-1970's.

Finally, this section adds three new provisions. Subsection (b)(3) would authorize the Secretary to carry out biomechanics research, including research on the injury tolerances of older drivers and pedestrians, as a basis for new vehicle safety design. Subsection (d) would amend the Secretary's authority to transfer title to section 403-funded equipment to State and local agencies for section 402 purposes to allow the transfer of title to any equipment purchased with subchapter A funds that would further any of the purposes of subchapter A. Subsection (e) would authorize the Secretary to undertake collaborative research and development, on a cost-shared basis, with non-Federal entities (State and local governments, colleges and universities, corporations, partnerships, sole proprietorships, and trade associations) to encourage innovative solutions to highway safety problems, stimulate voluntary improvements in highway safety, and stimulate the marketing of new highway safety-related technology by private industry. This collaborative research may include, but would not be limited to: crash data collection and analysis; biomechanics and anthropomorphic test device development; driver and pedestrian behavior; and demonstrations of technology. In

carrying out this subsection, the Secretary would be only authorized to enter into the kind of cooperative research and development agreements defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980, as amended (15 U.S.C. 3710a), except that the Secretary would be authorized to agree to provide not more than 70 percent of the cost of any research or development project selected by the Secretary under this subsection. In selecting projects to be conducted under this subsection, the Secretary would be required to establish a procedure to consider the views of experts and the public concerning the project areas. 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, would be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980, as amended.

Sec. 404, National Maximum Speed Limit, would repeal, by omission, the provisions of the national maximum speed limit law that: (1) require States to submit to the Secretary compliance data for a 12-month period on the percentage of motor vehicles exceeding 55 mph on their public highways posted at 55 (23 U.S.C. 154(e)) (the data collection provision is continued as part of the highway safety program, under the new section 402(b)(4)); and (2) establish a process under which a State could lose up to 10 percent of its non-Interstate highway construction funds for the following fiscal year if the State's 12-month compliance data show that more than 50 percent of its motorists exceeded the posted 55

mph limit (23 U.S.C. 154(f)-(h)). In addition, this section would incorporate the prohibition under the current section 141(a) of title 23, U.S. Code, against the approval of State highway construction projects in a State that fails to certify that it is enforcing all speed limits on public highways, in accordance with the current section 154 of title 23, U.S. Code. The national speed limit program would thus continue, but without the compliance criteria and related sanctions.

The Department has strong reservations about any attempt to impose a compliance formula on the States. It has become increasingly clear in recent years that the existing compliance formula bears little or no relation to actual highway safety. Congress also appears to recognize the unfairness and irrelevance of the current formula, as indicated by its moratoria on enforcement of sanctions for fiscal years 1986-1989. (Section 207 of the bill cancels any proceedings that are not concluded before the bill's enactment.) Moreover, there is also no evidence to suggest that efforts by States to achieve compliance and avoid sanctions result in improved highway safety.

After extensive consideration of alternative methods for measuring the States' compliance, the Department has concluded that each alternative could lead to results that are no more rational than those under the present compliance criteria. Accordingly, we believe any attempt to set a pass/fail level would necessarily be arbitrary and would create a potential penalty for some States whose speed limit enforcement efforts and fatality

experience are superior to those of other States not threatened with sanctions.

Our preference is to return to the form of the speed limit law originally enacted in 1975, with the States required to post and enforce the speed limit at the applicable level (55 mph or 65 mph), but not required to meet a specific compliance target. This approach is also consistent with the Department's interest and concern with the broad issue of speeding, which is not limited to compliance on 55 and 65 mile-per-hour roads. The States are clearly in the best position to assess local highway conditions and safety needs to determine the most effective use of their scarce enforcement resources. They should be permitted maximum flexibility to deploy enforcement personnel to meet their needs without the threat of losing Federal funds.

This section would also: (1) codify the current permission for the 65 miles per hour speed limit on non-Interstate highways located outside urbanized areas, in accordance with section 329 of Public Law 100-202; and (2) provide a cross-reference to the speed data collection and submission requirements of section 402(b)(4).

Sec. 405, National Minimum Drinking Age, is a restatement of section 158 of title 23, United States Code. It makes revisions to conform to the changes in chapter 1 of title 23 and to eliminate obsolete provisions. It contains the requirement to withhold 10 percent of apportionments under 23 U.S.C. 202(c)(1) and (2) from States that fail to comply with this section, and it provides for the apportionment of withheld funds to complying States.

Sec. 406, Reports of Highway Traffic Crashes, would codify the section on reports of highway traffic accidents ("crashes"), which was enacted as section 106 of the Highway Safety Act of 1966, as a new section 406 of title 23, United States Code.

Sec. 407, National Driver Register, would codify the National Driver Register Act of 1982 (currently a note to section 401 of title 23, United States Code) as a new section 407 of title 23, United States Code. A new provision is added to permit individuals who are employed, or seek employment, as operators of rail vehicles on rail fixed guideway mass transit systems (such as rapid rail and light rail--typically streetcars and subways) to have Register information about themselves transmitted to their employers, prospective employers, or to the Federal Mass Transportation Administrator. This section also provides that the head of a Federal department or agency authorized to receive Register information may request and receive such information directly from the Register. Finally, it provides for the termination of the NDR Advisory Committee on the date of establishment of a fully electronic Register system or December 31, 1994, whichever is earlier.

Sec. 408, Alcohol Safety, would authorize appropriations of $25 million for each of fiscal years 1992-1996, out of the Highway Account of the Highway Trust Fund, for bonus funds to States that take specific actions to advance highway safety within the framework of the section 402 program. These authorizations would be distributed, as provided in section 402(h), to eligible States that meet criteria under section 402(h), including criteria for

basic and supplemental grants under section 408 and 410 of title 23, United States Code, respectively, in effect on September 30, 1991, as implemented in rulemakings in effect on September 30, 1991. Thus, while this revision of title 23 would repeal, by omission, sections 408 and 410, the statutory contents of sections 408 and 410 for basic and supplemental grants in effect on September 30, 1991, as implemented in rulemakings in effect on September 30, 1991, are effectively incorporated in section 402(h). Finally, it should be noted that while the provisions of section 402(h) would apply to the funds authorized by this section, these funds would remain available until expended and would not be subject to any obligation limitation for State and community highway safety programs.

Section-by-Section Analysis

Subchapter B -- Safety Construction

Chapter 4 -- Safety

Title 23, United States Code

Sec. 451, National Bridge Inspection Program, a restatement of 23 U.S.C. 151, establishes minimum requirements for standards, requires development of a training program for designated bridge inspectors, and provides a source of funds to carry out the program.

Sec. 452, Reports and Surveys As Evidence, a restatement of 23 U.S.C. 409, continues the provisions prohibiting the use of reports and surveys for developing safety construction improvements as evidence in any action for damages in any Federal or State court.

Sec. 204, "Vince" and "Larry" Characters, would prevent the unauthorized manufacture and use of the characters "Vince" and "Larry," as originated by the Advertising Council, Inc., organized under the laws of the State of New York, in cooperation with the United States Department of Transportation. The Department of Transportation uses these characters as symbols to promote public safety on the highways.

This section contains six subsections. Subsection (a) would provide definitions of "Vince" and "Larry."

Subsection (b) of this section would declare that the names and characters, "Vince" and "Larry," are the property of the United States.

Subsection (c) of this section would authorize the Secretary of Transportation to license appropriate private use of "Vince" and "Larry" in return for royalty fees.

Subsection (d) of this section would require the Secretary of Transportation to deposit into a special account all fees collected under regulations promulgated by the Secretary under the section. Such revenue would be used to promote highway safety, and would be available until expended, without fiscal year limitation, as provided in advance by appropriation Acts.

Subsection (e) of this section would authorize the Attorney General, upon complaint by the Secretary of Transportation, to seek a civil injunction to prevent the unauthorized manufacture, use, reproduction or facsimile or simulation of "Vince" or "Larry."

Subsection (f) of this section would amend chapter 33 of title 18, United States Code, to provide criminal misdemeanor liability for the commercial unauthorized use of "Vince" or "Larry."

Sec. 205, Effective Date and Unobligated Balances, would set October 1, 1991, as the effective date of the Highway Safety Act of 1991, and provide that any unobligated balances available on September 30, 1991, for alcohol safety and drunk driving prevention incentive programs under sections 408 and 410 of title 23, United States Code, respectively, would lapse and that unobligated balances available on September 30, 1991, for other purposes under chapter 4 of title 23, United States Code, would remain available for obligation as provided by the law, rules and procedures in effect on September 30, 1991.

Sec. 206, Repeal of Annual Report Requirement, would repeal the provision requiring a separate highway safety annual report, which was enacted as section 202 of the Highway Safety Act of 1966. The information provided in this report will be included in the Department's annual report.

Sec. 207, Effect of Repealed Provisions, would extinguish any proceedings under any provisions repealed by this bill that are not concluded before the date of its enactment (e.g., speed limit compliance provisions).

Sec. 208, Conforming Amendments, would provide a number of conforming amendments. Subsection (a) would repeal section 106 of the Highway Safety Act of 1966 (80 Stat. 735) (pertaining to

reports of highway traffic accidents) as a consequence of section 106's codification as section 408 of title 23, United States Code.

Subsection (b) would provide conforming references due to the codification of the National Driver Register Act of 1982 as section 407 of title 23, United States Code.

Section-by-Section

Title III, Motor Carrier Act Of 1991

Sec. 301, Short Title, provides that title III may be cited as the Motor Carrier Act of 1991.

Sec. 302, Authorization of Appropriations, provides authorizations out of the Highway Account of the HTF for the fiscal years 1992 through 1996 for the Motor Carrier Safety Assistance Program and for expenses incurred by the Federal Highway Administration to operate the motor carrier safety program.

Sec. 303, Chapter 5 of title 23, adds chapter 5, Motor Carriers, to title 23, United States Code.

Section-by-Section Analysis

Chapter 5 -- Motor Carriers

Title 23, United States Code

Sec. 501, Definitions, provides definitions for Chapter 5.

Sec. 502, Access to the National Highway System, is a restatement of section 412 of the Surface Transportation Assistance Act of 1982. The section requires that all commercial motor vehicles have access, where reasonable, regardless of State law, between the highways on the NHS and terminals and facilities for food, fuel, repairs and rest. It also provides that household goods carrier vehicles and truck tractor-semitrailer combinations in which the semitrailer is no longer than 28 and 1/2 feet have access to points of loading and unloading except where restricted for safety considerations by a State or local government.

Sec. 503, Commercial Motor Vehicle Length Limitations, is a restatement of section 411 of the Surface Transportation Act of 1982. The section establishes minimum length limits of 48 feet for semitrailers in truck tractor-semitrailer combinations and 28 feet for trailers and semitrailers in truck tractor-semitrailer-trailer combinations operating on the National Highway System. It grandfathers the lengths of semitrailers in those States in which a semitrailer longer than 48 feet and in a semitrailer combination was in actual and lawful use on December 1, 1982 and grandfathers those trailers and semitrailers up to 28 and 1/2 feet long that were in actual and lawful use in a

truck tractor-semitrailer-trailer combination no more than 65 feet in overall length in any State on December 1, 1982.

It authorizes the Secretary to make the rules necessary to implement the section and to provide for the use of the NHS by specialized equipment; defines a truck tractor as a non-cargo carrying power unit but provides an exception to this for truck tractor-semitrailer combinations carrying motor vehicles or boats on the power unit; provides for the exclusion of certain safety and energy conservation devices when measuring the length of a vehicle for compliance with the limits in this section; and prescribes the procedures by which a Governor of a State may request that a segment of the NHS be deleted from being used by commercial motor vehicles.

Sec. 504, Commercial Motor Vehicle Width Limitation, is a restatement of section 416 of the Surface Transportation Assistance Act of 1982. The section establishes a width limit of no more or no less than 102 inches for vehicles operating on the NHS; provides for the exclusion of safety devices when measuring a vehicle for compliance with the width limit; and prescribes the procedures by which a Governor of a State may request that a segment of the NHS be deleted from being used by commercial motor vehicles.

Sec. 505, Commercial Vehicle Information System, requires that within 12 months of enactment a review of the information systems utilized by one or more States pertaining to the collection and accounting of fees and taxes for vehicle registration, motor fuel use, or other purposes shall be conducted

to determine whether or not the reviewed systems could be utilized to carry out this section.

An information system, that will serve as a clearinghouse and depository of information pertaining to the collection of and accounting of fees for registering commercial motor vehicles and taxes charged by States for motor fuel used by commercial motor vehicles shall be established. Maintenance of the information system shall be through a system of user fees.

Alternatives for operation of the information system by contract are allowed, through an agreement with a State or States, or by designating a third party.

The Secretary will establish standards to ensure uniform data collection and reporting by all States.

An earmarked amount of $2,000,000 shall be available to carry out the above from Motor Carrier Safety Assistance Program funds for each of the fiscal years 1992, 1993, and 1994.

The Secretary may make grants for the development and implementation of a program to register and collect motor fuel taxes for commercial motor vehicles.

An earmarked amount of $5,000,000 shall be available to carry out the above from Motor Carrier Safety Assistance Program funds for each of the fiscal years 1992, 1993, 1994, 1995, and 1996.

The Secretary may make grants to carry out a pilot project to demonstrate methods of linking the safety fitness of the registrant or the motor carrier responsible for the operation of the commercial motor vehicle to registering commercial motor vehicles. An earmarked amount of $1,000,000 shall be available to

carry out this purpose from the Motor Carrier Safety Assistance Program funds for each of the fiscal years 1992, 1993, and 1994.

The Secretary, after considering feasibility, will develop regulations under which States will not be allowed to register commercial motor vehicles under the uniform Federal standards established under section 508(b), unless the State or Secretary is satisfied as to the safety fitness required to operate the commercial motor vehicle.

The Secretary may include information that would reflect on the safety fitness of the registrant or the motor carrier responsible for the operation of a commercial motor vehicle as part of the uniform data collection standards that States will have to follow.

Sec. 506, Enforcement, restates section 413 of the Surface Transportation Assistance Act of 1982 and authorizes the Secretary to request the Attorney General to seek injunctive relief in any United States district court where necessary to assure that a State complies with the terms of chapter 5, title 23, U.S.C.

Sec. 507, Motor Carrier Safety Assistance Program (MCSAP), an amendment of sections 402, 403 and 404 of the Surface Transportation Assistance Act of 1982, provides grants for the development and implementation of State commercial motor vehicle safety enforcement programs. The terms State and Commercial Motor Vehicle are defined. State will include Puerto Rico, the District of Columbia and the Territories.

State plans to adopt and implement a State commercial motor vehicle safety enforcement program will include an agreement for

the State to enforce Federal motor carrier safety regulations, rules, standards and orders as they relate to commercial motor vehicle safety, vehicle size and maximum weight, and drug awareness or enforcement, or compatible State regulations, rules, standards, and orders. Vehicle size and maximum weight enforcement and drug awareness or enforcement are newly eligible activities under MCSAP. The Secretary will establish guide lines for the compatibility of State and Federal safety requirements. To be approved the plans must promote the objectives of this section and:

(1) identify an appropriate lead State agency for administering the plan;

(2) ensure that the State agency has the authority, resources and personnel to administer the plan;

(3) ensure that the State will fund the plan;

(4) provide the ability to enter property and carry out inspections under the plan;

(5) meet the uniformity requirements identified by the Secretary for reporting, forms, recordkeeping, inspections, and investigations;

(6) ensure all required reports are submitted to the State agency responsible for administering the plan, and that the reports are available to the Secretary;

(7) ensure that the State will participate in a national motor carrier information system as designated by the Secretary and provide information on roadside inspections, safety fitness,

accidents, and vehicle weighing to the system in a timely fashion and in a manner that is consistent and uniform;

(8) ensure that the added cost of personnel for enforcement of vehicle size and maximum weight requirements will not diminish the level of effort of other safety activities under this section; and

(9) ensure that the State will make available all current or updated State laws, regulations, standards, orders and rules applicable to the provisions in this section.

In preparing a motor carrier plan, the state motor vehicle agency would be required to coordinate with the highway safety plan developed under section 402 of this title.

The level of funding for enforcement of safety, vehicle size and maximum weight requirements and drug awareness or enforcement by the State (exclusive of Federal funds) must be maintained at a level equal to the expenditures during the last full fiscal year. The State plan must be continually evaluated and approval of the plan can be withdrawn.

The Federal share is reduced from 80 to 75 percent of the costs incurred by a State in the implementation and development of a commercial motor vehicle safety enforcement program. The Secretary may fund MCSAP projects with up to 100 percent Federal participation. The Secretary would only exercise this authority to fund a project that a State is carrying out for the direct benefit of States nationwide or MCSAP as a whole. This type of project may be carried out by a single State or through a cooperative, pooled fund arrangement with other States.

The Secretary may use up to one percent of the funds authorized to carry out the section for administering the program each fiscal year. Remaining funds will be allocated among States whose applications have been approved, using distribution criteria established by the Secretary.

Funds will be available until expended. Allocations to States will remain available for expenditure for up to 3 years. In succeeding years, States which have not expended the full amount of their allocated funds will receive additional funds only to the extent that these funds are necessary to support the program for the current program year.

Approval by the Secretary of a grant will constitute a commitment by the Federal government to pay the Federal share of the cost of carrying out the purpose of the grant, i.e., the program operates with contract authority.

Payments to States will be made on a cost-incurred basis. These payments may not exceed the Federal share of costs as of the date of the voucher.

Sec. 508, State Requirements for Interstate Motor Carriers, preempts State law relating to interstate or Intrastate rates, routes, or services of interstate motor carriers. This subsection will prohibit States from requiring that interstate motor carriers obtain intrastate authority.

The Secretary will write uniform standards that States must follow when registering commercial motor vehicles operating in interstate commerce. The standards will be patterned after the International Registration Plan, the Canadian Agreement on Vehicle

Registration, or similar base State plans. States will not be permitted to collect interstate motor vehicle registration fees under any other system.

The Secretary also will write uniform standards that States must follow when administering and collecting motor fuel use taxes for commercial motor vehicles operating in interstate commerce. The standards will be patterned after the International Fuel Tax Agreement or similar base State plans. States will not be permitted to collect fuel taxes for interstate motor vehicle operations under any other system. The Secretary also will have the authority to require each State to establish a one-stop operation whereby an individual or motor carrier would go to a single point of contact within the State for registering a commercial motor vehicle, paying fuel use taxes, and filing for and paying other fees or taxes associated with the purchase, use and operation of commercial motor vehicles in interstate commerce. The Secretary, in cooperation with the States, will place the highest priority for establishing a single base State plan for vehicle registration, a similar plan for motor fuel use taxes, or a single plan for the administration of both registration and motor fuel use requirements. After achieving uniform registration and motor fuel use requirements, the Secretary will continue working with the States to integrate other fees or taxes associated with the purchase, use and operation of commercial motor vehicles into the base State activities.

Extensions of time may be permitted at the discretion of the Secretary, to allow States to comply with the vehicle registration

and taxation of motor fuel requirements. The Secretary may delegate authority for these requirements to a national organization.

Sec. 509, State Size and Weight Laws, a restatement of 23 U.S.C. 141(b) and (c), requires each State to certify to the Secretary that it is enforcing its vehicle size and weight laws on the Interstate System and authorizes the Secretary to require the information necessary to verify a State's certification. It provides for the withholding of 10 percent of the NHP funds apportioned to a State if the State fails to certify or the Secretary determines that the State is not adequately enforcing all of its vehicle size and weight laws.

If the Secretary determines that a State is adequately enforcing its size and weight laws within 1 year of the date the apportionment is reduced, the apportionment is to be increased by the amount of the reduction. If this determination is not made within one year of the reduction, the withheld amount is to reapportioned among all the States according to the original apportionment formula.

Sec. 510, Vehicle Weight Limitations, restates 23 U.S.C. 127 and provides that no funds for the NHP shall be apportioned to any State that does not allow vehicles in compliance with the weight limits it establishes to operate on the Interstate System. It provides that the weight limit for a single axle shall be no more or less than 20,000 pounds, for a tandem axle no more or less than 34,000 pounds; and a maximum of 80,000 pounds for the vehicle gross weight that is otherwise limited by the formula described

in the section; includes an exception to this formula if the distance between the first and fourth axles in a group of two consecutive tandem axles is no less than 36 feet; and provides that any funds withheld shall lapse if not released and obligated within the time period they are available for obligation.

The section further grandfathers State vehicle weight provisions in effect on July 1, 1956, except, for those provisions for groups of two or more axles, the grandfather date is January 4, 1975; provides unique grandfather dates of February 1, 1960 for Hawaii and May 1, 1982, for Michigan; and authorizes the States to issue permits allowing vehicles with loads that cannot be easily dismantled or divided to operate on the Interstate System.

Sec. 304, Repeal of Sections and Unobligated Authorizations, provides for repeals and for the disposition of unobligated Motor Carrier Assistance Program authorizations.

Sec. 305, Registration by States, amends 49 U.S.C. 11506. This section prohibits States from requiring interstate carriers to register their ICC operating authority. As a result, interstate carriers will no longer have to register their operating authority with the States, obtain an annual cab card, and obtain annual State identification stamps.

Sec. 306, Effective Date, provides an effective date for the Motor Carrier Act of 1991 of October 1, 1991.

TITLE IV

FEDERAL MASS TRANSPORTATION ACT OF 1991

SECTION BY SECTION

Sec. 401, Short Title. This section provides that Title IV may be cited as the Federal Mass Transportation Act of 1991.

Sec. 402, Agency Name. This section would rename the Urban Mass Transportation Administration the Mass Transportation Administration. Over the past decade the rural transportation program administered by UMTA has increased in funding levels and importance, and the name change would reflect this broadening of the agency's mandate beyond a strictly urban focus. Congress has previously recognized this new mandate by designating the transit title in the 1982 and 1987 reauthorization bills as the Federal Mass Transportation Act.

Sec. 403, Discretionary Capital Grants - Eligible Projects. Section 403 would amend section 3 of the Urban Mass Transportation Act of 1964, as amended (the "Act"), by deleting a prohibition against using section 3 funds for construction of a public highway and adding a provision permitting the use of these funds for public highway construction. This change would permit Section 3 funds to be used for the construction of public highways (other than those functionally classified as local or rural minor collectors), where appropriate.

Further, a highway project could be funded under this section

only so long as the funds used for the local share of such a project are eligible to fund either highway or transit projects, or when, in the determination of the Secretary, there exists a significant amount of funds from a dedicated source available to fund local transit projects. This provision would mean that, if there existed a dedicated source of funding for highway projects but not for transit projects, that dedicated source of highway funding could not be used to fund a highway project under the transit program. Rather, in such a situation a highway project could be funded under the transit program only by using the same source of funds available for transit projects, which in most cases would be general fund revenues. If, on the other hand, there existed a dedicated source of funding for transit projects, then a highway project could be funded under the transit program using dedicated highway funds. (In such a case, the Secretary would first have to determine that there was a sufficient amount of transit dedicated funding rather than some very minimal amount to make certain that the provision was used in a fair and equitable manner.)

Sec. 404, Discretionary Capital Grants - Innovative Techniques and Practices. Current section 3(a)(1)(C) includes as eligible projects those which introduce into public transportation service new technology in the form of innovative and improved products. Section 404 would add to this section activities currently eligible under section 4(i) of the Act. In a "housekeeping" effort, the bill would delete extraneous provisions of section 4 of the Act and would integrate various of its

substantive provisions into the Act, as appropriate, including this addition to section 3(a)(1)(C). The language of section 404 adopts that of section (4)(i), making it clear that the projects eligible for funding under section 4(i) would continue to be eligible for funding under 3(a)(1)(C).

Sec. 405, Discretionary Capital Grants - Elderly and Handicapped.

Section 405 includes another "housekeeping" change by deleting current section 3(a)(1)(E) (dealing with no longer current Northeast Corridor issues) and replacing it with a new section 3(a)(1)(E). This new paragraph encompasses the services authorized in section 16(b)(1) of the Act. As with the section 4(i) material, relocating the section 16(b)(1) material in this section would make it clear that these projects continue to be eligible for funding under section 3, and would not otherwise affect the substantive provisions of current section 16(b)(1).

Sec. 406, Discretionary Capital Grants - Technical Amendment to Provide for Full Funding Contracts. Section 3(a)(4) provides that the Secretary may announce the intention to obligate funds for a project under section 3 by means of a letter of intent. Section 406 would add the term "full funding contract" in three places in section 3(a)(4). The full funding contract has become the agency's principal long-term funding commitment mechanism and embodies the letter of intent policies of section 3(a)(4). This section thus would make it clear that, as with a letter of intent under current law, in no case may the total amount estimated to be

needed for full funding contracts exceed the amount authorized under section 3 moreover, as under current law, and any such project must be sufficient to complete a segment that will be operable.

Sec. 407, Discretionary Capital Grants - Criteria for New Starts. Section 407 would amend section 3(i) of the Act by adding criteria to the existing three criteria that must be met before a new start project may be funded under section 3. The existing criteria require such a project to be: based on the results of alternatives analysis and preliminary engineering; cost-effective; and supported by an acceptable degree of local financial commitment. Section 407(c) would require that a proposed project be based upon a thorough assessment of the feasibility of using a variety of innovative financing mechanisms for the construction and operation of the project, including benefit assessment districts, joint development activities and the like. In addition Section 407(c) would add another new element, namely, that the project be included in the report on new starts funding that the Secretary annually submits to Congress pursuant to section 3(j) of the Act. This would formalize the process and make clear that only those projects that satisfy the new starts criteria, as determined by the Secretary and reported to Congress, would be eligible for new starts funding. Section 407 also would provide guidance regarding the cost-effectiveness and financial commitment determinations.

Section 407 would also incorporate in law the current practice of implementing a new start project by means of a full

funding contract. Currently each new start project is subject to such a contract, which establishes the maximum amount of Federal participation in a project's funding, and sets the other terms and conditions applicable to the project. In connection with the technical change that section 406 would make, this would mean that the total amount required to complete approved new start projects could not exceed the remaining balance of the authorization for new starts.

Sec. 408, Discretionary Capital Grants - Funding and Allocation Levels. Section 408 would delete certain provisions from section 3. Under section 435 of this bill section 3 would be limited to an authorization of $350 million in fiscal years 1992 and 1993, $430 million in fiscal years 1994 and 1995, and $450 million in fiscal year 1996. Accordingly, the existing allocation of funds among the four statutory categories (new starts, rail modernization, bus, and other), no longer would be needed and would be eliminated by section 408, as would the accompanying reporting requirement under this section.

Moreover, new subsection (k) would provide that no more than $300 million in fiscal years 1992 and 1993, no more than $380 million in fiscal years 1994 and 1995, and no more than $400 million in fiscal year 1996 would be available for new rail start projects, with the remainder each year - $50 million - available for discretionary projects under section 3. Thus, $50 million would be available each year for section 3 projects other than new starts, including Metropolitan and Rural Innovative Bonus Projects (discussed at section 410 below), as well as projects

designed to assist in the implementation of new Federal laws such as the Americans with Disabilities Act of 1990 and the Clean Air Act Amendments of 1990. It is from this section 3 source that highway projects would be eligible for funding under section 3.

Sec. 409, Discretionary Capital Grants - Advance Construction Authority Limitation. The 1987 Surface Transportation and Uniform Relocation Assistance Act added an advance construction authority provision both to sections 3 and 9 of the Act. The provision, which is essentially the same as a provision that has been in Federal highway law for many years, allows an applicant to get UMTA approval of a grant in advance of the availability of Federal funds. When the Federal funds subsequently become available, they quickly can be made available to the grantee because of the earlier approval process. The section 9 provision included language limiting the use of advance construction authority to a period when an authorization is in effect. No similar provision was included in section 3. Section 409 would amend section 3 by adding a limitation on the use of advance construction authority to a period when an authorization is in effect.

Sec. 410, Metropolitan and Rural Innovative Bonus Projects. Section 410 would amend section 3 of the Act by adding a new Bonus Projects Program. Included as eligible activities are projects under 23 U.S.C. 104(c) that comply with the criteria set forth in section 410, including short time period and non-capital intensive projects, those with private sector and state and local commitment, and cost effective projects.

This program parallels a program under the Highway Title of this bill, although funds under this bill are not specifically set aside for these projects.

Sec. 411, Discretionary Capital Grant - Federal Share. Section 411 would change the section 3 Federal share requirement at section 4(a) of the Act from the current 75 percent to up to 60 per centum, except for a new start project, in which case the Federal share would be up to 50 per centum of the net project cost. These changes emphasize that the scaled-down section 3 discretionary program under this bill would be available only to finance those new start projects that show strong local financial commitment since at least half of the financing for such projects would have to come from non-Federal sources. Other discretionary grants under section 3, would have a Federal share of up to 60 percent, which is consistent with the Federal share proposed for the other programs of the UMTA Act, as further discussed below.

Sec. 412, Discretionary Capital Grants - Deletions of Extraneous Material. This section would delete subsections (b) through (i) of section 4. The substance of subsection (i) would be moved to section 3(a)(1)(C), but the remainder of section 4, other than section 4(a), would be deleted as extraneous. The deleted provisions primarily reflect superseded authorization levels under the UMT Act, beginning back in the 1960s. Also deleted would be a quarterly report to Congress on various funding levels. Subsection (a) would lose its designation, since it would be the only paragraph left in the section.

Sec. 413, Section 8 - Transportation Planning in Urbanized Areas. Section 413 would replace the current section 8 planning program in its entirety. The new section 8, which parallels the planning process proposed in the highway title of this bill, would in some cases bolster the existing process and in other cases streamline the process.

The current requirement for a continuing, cooperative, and comprehensive urban transportation planning process in urban areas of 50,000 or more in population would be retained with some modifications to strengthen the planning process for urbanized areas of 200,000 or more in population and to give the States and local units of government greater flexibility in areas less than 200,000 in population.

Specifically, in urbanized areas of 200,000 or more population, increased emphasis would be placed on multi-modal considerations, coordination with land use planning and development decisions, and consideration of transportation related air quality problems. Areas of 200,000 or more in population would be required to develop a multi-modal congestion management system that results in a plan for the effective management of new and existing transportation facilities through travel demand reduction and operation management strategies. Air quality considerations must be addressed in the Congestion Management Plan, and in areas where a transportation element of the State Implementation Plan is required, the Congestion Management Plan must be coordinated with the process to develop the State

Implementation Plan. An evaluation of the costs and impacts of proposed actions on both mobility and air quality is required.

The current requirement that a metropolitan planning organization (MPO) in urbanized areas of 50,000 population or more be designated by agreement among the local units of government and the Governor would be continued. Designations made before enactment of this section would remain valid and no redesignations of them would be required by this provision.

In all urbanized areas, the MPO (in cooperation with the State and transit operators) must develop a transportation improvement program that includes all projects proposed for funding under the Act. In urbanized areas of 200,000 or more in population, the transportation improvement program must be developed through the process specified in section 8.

In urbanized areas of less than 200,000 in population, the MPO, transit operators and the State mutually would decide on the extent of the planning process to be carried out. However, at a minimum the MPO and the State must develop a transportation improvement program, as specified and assure that air quality problems in non-attainment areas are addressed and the Transportation Improvement Program conforms with the State Implementation Plan.

Because section 8 in its entirety would be struck from the law by section 413, current subsection (e), dealing with the consideration of the private sector in the planning process, would be redesignated as subsection (g) but would otherwise be unchanged from current law.

The authority of the Secretary to make contracts or grants under this proposed section 8 would remain essentially the same as that under current law, except that the Secretary would also be authorized under section 8 to enter into working agreements with other Federal agencies, an authority that is provided currently under section 6 of the Act. This provision would make it clear that such authority also would be available under section 8.

Sec. 414, Section 9 Formula Grant Program - Apportionments. Section 414 would make technical changes to section 9(a)(1) and (2) of the Act to reflect the changes elsewhere in this bill that would fund the section 9 formula program solely from the Mass Transit Account of the Highway Trust Fund. Section 414 also would provide that, before apportionment of any section 9 funds, $600,000,000 would be made available annually on the basis of the section 9 rail formula criteria. This has the effect of transferring into the Section 9 formula program a $600 million equivalent of the Section 3 discretionary rail modernization category, and allocating it under the rail tier factors. This corresponds closely with the way in which the discretionary rail modernization category has in fact been administered. It also has the effect of sharing the modernization and upkeep resource with relatively new systems beginning to experience these problems.

Sec. 415, Section 9 - Formula Grant Program - Elimination of Incentive Tier. Section 415 would amend section 9 by eliminating from the funding formula the incentive tier provision. Specifically, by removing subsections (b)(3) and (c)(3), as well

as the percentages indicated in subsections (b)(2) and (c)(2), the bill would remove a funding incentive introduced in the 1982 Surface Transportation Assistance Act. This incentive provision was intended to encourage efficient and effective use of mass transit service by building a calculation of passenger miles versus operating cost into the funding formula. The incentive tier calculation has had little effect on performance, determination of the passenger miles is difficult and time consuming for grantees to develop, and finally, there appears to be little difference in the calculations with or without the incentive tier.

Sec. 416, Section 9 - Formula Grant Program - Applicability of Safety Programs. Section 416 would amend section 9 to make it clear that the provisions of section 22 of the Act, which deal with safety issues, apply to section 9. Such a provision is necessary because of the requirement in section 9 that only those sections of the UMTA Act specified apply to section 9.

Sec. 417, Section 9 - Formula Grant Program - Coordination of Public Transportation. Section 417 would require a section 9 recipient, in developing its program of projects, to assure that the program provides for the maximum feasible coordination of public transportation services assisted under section 9 with transportation services assisted by other Federal sources. A similar provision currently is in section 18 of the Act.

Sec. 418, Section 9 - Formula Grant Program - Eligibility. Section 418 would expand the eligibility of capital funding under the section 9 formula program. First, joint development projects

currently eligible only under section 3 now would be available for funding under section 9 as well. Second, section 9 capital funding for the first time would be available to fund a highway project (other than those functionally classified as local or rural minor collectors), but only so long as the local share funds for any such project are available to fund either highway or transit projects, or when, in the determination of the Secretary there were sufficient dedicated funding sources for transit. This is the same language that has been added to section 3 regarding the eligibility of highway projects for funding.

Third, for areas under 1,000,000 in population, the proposal would expand the definition of items categorized as "associated capital maintenance items." Under current law that provision covers equipment, tires, tubes, and materials which cost no less than 1/2 of 1 percent of the fair market value of the rolling stock comparable to that which such items are being purchased for. (This provision under current law would remain the same under this bill for urbanized areas with populations over 1,000,000. Under this bill, such areas are not eligible to receive non-capital operating funding.) Under section 418 this list of items would be expanded for areas under 1,000,000 in population to include "supplies" as well (but not including fuel and lubricants). Section 418 also would remove the provision which limits associated capital maintenance items to those which cost in excess of 1/2 of 1 percent of the cost of the vehicle in which they are to be used. Section 418 would delete the word "equipment" from the definition of "associated capital maintenance items" to make

it clear that "equipment" such as buses remain eligible for capital funding and would not be subject to the 25 percent cap discussed below. Equipment in the form of spare parts, however, would come within the definition of materials and supplies.

To make certain that a recipient in an area under 1,000,000 in population does not spend a significant amount of its Federal funds on these items, however, section 418 also would provide that an area could spend no more than 25 percent of its annual apportionment, or its hold harmless "non-capital" amount of funding (discussed below), whichever is greater, to pay for such associated capital maintenance items. Stated another way, even if an area reaches this 25 percent cap before its hold harmless "non-capital" limitation level, associated capital maintenance items continue to be eligible for Federal funding until the area reaches its hold harmless noncapital limitation level.

With this expanded definition of eligible capital funding, for areas under 1,000,000 in population, this section also would eliminate operating expenses as an eligible expense under section 9 although an area would be "held harmless" in terms of Federal funding for what would be categorized as non-capital expenses. Specifically, section 418 also would replace subsection (j)(2) with a provision that would allow urbanized areas to receive funding for non-capital expenses up to a certain level. The section allows as an eligible noncapital expense an amount equivalent to the amount of an urbanized area's or State's (for areas of less than 200,000 population) operating assistance apportionment for fiscal year 1991 less the amount actually used

for associated capital maintenance items under the expanded definition of capital.

Finally, section 418 amends section 9(j)(2) to provide such an amount for areas categorized as urbanized areas for the first time as the result of the 1990 Census. The amount for these areas would be two-thirds of their section 9 apportionment.

Sec. 419, Section 9 - Formula Grant Program - Federal Share. This section would reduce the Federal share for capital projects under section 9 from its current 80 percent to 60 percent. The Federal share for non-capital expenses would be 50 percent. This would require recipients to establish stronger financial commitments at the local level before Federal capital funds would be made available. The section also deletes the second sentence of subsection (k)(1), specifying the Federal share for operating expenses. This sentence has been deleted because operating expenses, as an eligible category of funding, have been removed from the Act, although an area would be able to use section 9 funds for such noncapital expenses up to a level representing an amount an area was eligible to receive for operating expenses during fiscal year 1991.

Sec. 420, Section 9 - Formula Grant Program - Deletion of Extraneous Material. This section would remove from section 9(k) paragraphs (k)(2) and (k)(3)) as extraneous, since operating assistance would no longer be eligible for funding. Certain still applicable provisions concerning apportionment have been updated and moved to section 9(j)(2).

Sec. 421, Section 9 - Discretionary Transfer of Apportionment. Section 421 would amend section 9(n) to allow the Governor to supplement funds apportioned under section 16(b) of the Act. (Section 9(n) already allows the Governor to supplement funds apportioned under section 18 with funds apportioned under section 9(d).) Conversely, section 421 also allows a Governor to transfer a portion of its section 16(b) apportionment to supplement funds apportioned to it under section 18(a) or 9(d).

Sec. 422, Section 9 - Formula Grant Program Deletion of Environmental Duties. Section 422 would amend section 9 by adding in new subsection (r), authority for the Secretary to issue regulations providing for recipient assumption of environmental review procedures applicable under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et. seq.). The provision would permit recipients to "stand in the shoes" of the responsible Federal officials for purpose of NEPA compliance under this section. This provision is comparable to an environmental provision in the Housing and Community Development Act of 1974 for the Community Development Block Grant. The subsection would require an annual certification from the recipient accepting NEPA responsibilities. The Department intends to provide training and assistance as necessary to recipients so that they may carry out the responsibilities they receive under this provision.

Sec. 423, Section 10 - Grants for Training Purposes. Section 423 would amend section 10 of the Act to broaden the

type of grants for management training beyond fellowships to include other sources and types of training.

Sec. 424, Section 11 - University Transportation Centers. Section 424 would make a number of revisions to the University Transportation Centers program at section 11(b) of the Act. First, section 424(a) would revise the responsibilities of the Centers to include transportation safety issues. Next, section 424(b) would delete the current National Advisory Council provision and replace it with a requirement that the results of the Centers' studies be coordinated and disseminated by the Secretary.

In addition, section 424(c) would amend section 11(b)(8) to permit up to 1 percent of the funds made available under this Program by any agency of the Department to be available for the administrative expenses the Department incurs in administering the program. The Secretary intends to delegate the responsibility to administer the program to the Administrator of the Research and Special Programs Administration.

In addition, section 424(d) would authorize the Secretary to make grants to colleges or universities to establish three additional National Centers for Transportation Management, Research and Development to accelerate the involvement and participation of minorities and women in transportation related professions, especially in the science, technology and engineering disciplines. These new Centers would have to meet all of the guidelines and criteria applicable to the other Centers. An additional $3,000,000 beyond the current $10,000,000 annual

authorization would be authorized under both the Mass Transit Account and the Highway Trust Fund to provide for grants for these Centers.

Finally, section 424(d) would add a paragraph (12) providing that the Secretary could make available to the Centers other funds appropriated for transportation research.

Sec. 425, Section 12 - Transfer of Facilities and Equipment.

Section 425 would add a new provision to the general provisions section of the UMT Act. Specifically, if a recipient determines that facilities and equipment acquired with assistance under the UMT Act no longer are needed for their original purposes, 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, on condition that any such facilities (including land) remain in public use no less than five years after the date of the transfer.

Before authorizing such a transfer for any public purpose other than mass transportation, the Secretary must first determine that there are no purposes eligible for assistance under the UMT Act for which the asset should be used; 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, in the case of facilities (including land), the Secretary determines through an appropriate screening or survey process that there is no interest in acquiring the asset for Federal use.

The Secretary would make any such determination in writing. Finally, the provisions of this section would 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. 426, Section 12 - Public Highway Projects. This bill would authorize the funding of a public highway project under sections 3, 9, and 18 of the Act. In any such case, funds would be transferred to and administered by the Federal Highway Administration in accordance with the requirements of that agency. Similarly, section 118 of the highway title of this bill provides that funds for any transit projects funded under that program would be transferred to and administered by FMTA.

Sec. 427, Section 13 - Labor Standards - Minimum Contract Amounts. Section 427 would establish a floor of $250,000 for construction contracts needing to comply with the Davis-Bacon Act, as amended. Construction contracts below that amount would thus not be subject to the Davis-Bacon Act. In addition, section 427 would prohibit the splitting of contracts to avoid the requirements of the Davis Bacon Act.

Sec. 428, Section 16 - Elderly Persons and Individuals with Disabilities Program. Section 428 would revise section 16 by deleting subsections (b), (c), (d), and (e) and replacing them with a revised subsection (b). Much of this material is obsolete, requiring the Department to meet deadlines for activities whose times have passed. As noted above in the discussion of section

404, the substantive provisions of section (b)(1) have been moved to section 3 of the Act.

The new subsection (b), in essence, would contain the basic provisions for the elderly persons and individuals with disabilities program. New section 16(b) removes any confusion that may have existed in program administration under the section 16(b)(2) program. For example, section 16(b) clearly allows a private non-profit recipient to lease equipment funded with section 16 funds to a public agency operating a coordinated system for the transportation of elderly persons and individuals with disabilities.

Sec. 429, Section 17 - Governor's Allocation. Section 429 would repeal section 17 of the Act, a provision that has not been authorized for many years and no longer is used by the agency, and would replace it with a new section 17.

This new section would establish greater authority at the State level for certain transit programs. Specifically, new section 17(a) would provide that the funds made available each year under the Act for the section 18 rural program, the section 16(b) elderly and handicapped program, and the section 9 formula program for urbanized areas of less than 200,000 population, would be available to the Governor to allocate as the Governor saw fit among these three programs. Once the Governor determined the appropriate allocation of funds each year, funds made available under the three programs would be subject to the statutory requirements of each particular program.

Section 17(b) provides that the Governor would submit the program of projects for each such section to the Secretary on an annual basis. Once approved by the Secretary, the Governor would enter into a single annual grant with the Secretary for each of the different programs (sections 9, 16, or 18) or for all such programs.

Section 17(c) would permit the Governor to use funds available under each of these programs to pay for administrative costs resulting from administering the programs, and for research and related activities in support of the programs. These funds would have the same Federal and local share as the sections 9, 16, or 18 programs (i.e., 60/40).

Section 17(e) would require the Governor to certify that, before funds would be made available under section 9 or 18 for construction of a highway project, there were no priority transit needs unmet in the State. Section 17(f) would delegate NEPA authority to recipients, consistent with the provision in proposed section 9(r) of the UMT Act.

Finally, section 17(g) would require the Secretary to conduct a review every 3 years to determine compliance with relevant statutory requirements. This parallels the triennial review requirement under section 9.

Sec. 430, Section 18 - Nonurbanized Area Formula Program Operating Assistance Limitation. Section 430 would limit the amount each State could spend on operating assistance with section 18 funds to an amount no greater than the apportionment the State received under section 18 in fiscal year 1991.

Sec. 431, Section 18 - Nonurbanized Area Formula Program - Federal Share. Section 431 would amend the section 18 Federal share requirement. The share would be set at 60 per centum -- consistent with the other Federal share amendments in the proposal. Like these other provisions, the intent of the provision is to fund those projects which demonstrate an increased level of local financial commitment. Non-capital expenses would be eligible under section 18 at the 50 per centum Federal share level.

Sec. 432, Section 18 - Nonurbanized Area Formula Program - Eligible Items. As under sections 3 and 9 of the Act, public highway projects are eligible for funding under section 18 subject to the same balanced local share approach discussed above in the section dealing with section 3.

Sec. 433, Section 18 - Nonurbanized Area Formula Program - Transfer of Facilities and Equipment; Deletion of Extraneous Material. Section 433 would make three additional changes to section 18. First, it would remove the second sentence from current subsection (h), the rural transportation assistance program. The provisions contained in this sentence are obviated by the provisions of new section 26, planning and research. Second, section 433(b) would authorize the State to transfer facilities and equipment acquired with section 18 or section 16(b) funds to any recipient eligible to receive UMT Act funds so long as the facilities and equipment are used in accordance with their original statutory purposes. This authority would be in addition

to the disposal authority provided for generally under section 12(k).

Finally, section 433(c) would strike section 18(g) from the UMT Act. This section concerns a report that was completed long ago. Existing section 18(h) would be redesignated section 18(g).

Sec. 434, Section 20 - Human Resources Program Support. Section 434 would amend current section 20, which authorizes the Secretary to make grants or contracts for national or local programs that address human resource needs as they apply to public transportation activities. Section 434 would redesignate the current provision as subsection (a) and add a new subsection (b).

This new subsection would authorize the Secretary to retain any funds returned in connection with these human resource activities in a fund whereby these retained funds could in turn be made available for any human resource activities eligible to be funded under section 20.

UMTA seeks express authority to establish national or local programs that use fund mechanisms by means of a grant or contract. Without this authority, agency efforts have been restricted to local rather than national programs in certain emphasis areas, such as assistance to women and minorities to obtain venture capital.

Under current section 20 authority, UMTA funds a variety of projects to accomplish the legislative intent of this section. In certain areas, however, UMTA efforts have been hampered by the statutory distinctions governing the use of a grant versus a contract. In brief, an assistance award (grant or cooperative

agreement) is used when the primary purpose of the transaction is to support the activities of the recipient. A contract is used when the primary purpose of the transaction is to obtain goods or services for the government. The fact that the goods or services acquired under the contract (e.g., development and implementation of a loan program,) are dispensed directly to the public does not change the substance of the transaction and permit use of an assistance award rather than a contract.

Further, a recipient of funds under an assistance award has fewer constraints than those operating under a contract. For example, the Federal Acquisition Regulations (FAR) and Federal appropriations law restrictions on use of fund mechanisms do not apply to grantees. The General Accounting Office has stated that agency appropriations cannot be used under a fund mechanism absent express statutory authority. To do so would create an impermissible augmentation of appropriations. Thus, UMTA has been able to support local initiatives, such as a minority contractor loan program providing for cycling of loan payments and related interest within the program as additional venture capital by awarding a grant, but could not do so on its own initiative under contract.

The mass transit industry operates primarily in a local environment rather than interstate or nationally. There are more than ample private enterprises available to develop and implement national programs on a contract basis. UMTA is seeking to tap this private sector resource in pursuit of the national programs envisioned by this section.

Sec. 435, Section 21 - Authorizations. Section 435 would amend section 21 of the Act to provide authorizations for the period fiscal year 1992 through fiscal year 1996. Funding would be provided solely from the Mass Transit Account of the Highway Trust Fund.

Subsection (a) of section 21 would authorize appropriations each year from the Mass Transit Account of the Highway Trust Fund. Specifically, for fiscal years 1992 and 1993 $2.89 billion, for fiscal years 1994 and 1995, $2.81 billion, and for fiscal year 1996, $2.89 billion. (In addition, subsection (f) separately would authorize funds for the section 3 program, as discussed below.)

Each year funds would be taken "off the top" of the Mass Transit Account for six different programs. For three of these programs, the amounts to be taken "off the top" of the Transit Account would be derived from a percentage of the total Transit Account as well as under another mass transit Federal funding source. Thus, subsection (b)(1) provides that an amount equivalent to 2.8 percent of the total of the Mass Transit Account and National Capital Transportation Act of 1969, as amended, funds annually made available would be made available from the Transit Account to fund the new section 26 of the Act. (The National Capital Transportation Act is the source of Federal funding of the Washington, D.C. Metrorail system.)

Subsection (b)(2) also takes a percentage - not to exceed 2 percent - of the total Trust Fund, and National Capital Transportation Act funds, and that amount would be made available

from the Transit Account for purposes of the administrative expenses of the agency.

This same procedure is used for the elderly and handicapped section 16(b) program, as shown in subsection (b)(3), which would take not to exceed 1.5 percent of the total of the two funding sources from the Transit Account for that program.

Next, two other programs also have amounts to be drawn off the top of the Transit Account. Subsection (b)(4) provides amounts as may be deemed necessary for the section 23 program management oversight program; and subsection (b)(5) provides $6 million annually for the University Transportation Centers program.

After allocation of these funds, $160 million would be authorized for fiscal years 1992 and 1993 for mass transit substitute projects under the interstate transfer program.

After allocation of these program amounts each year, the remaining Transit Account funds are to be made available, first, 2.93 percent for the section 18 rural program (or $89 million, whichever is larger), with all remaining funds then to be made available under the section 9 formula program for urbanized areas - as provided for in subsection (e).

Subsection (f) provides contract authority for funds from the Mass Transit Account for the section 3 program in the amount of $350 million for fiscal years 1992 and 1993, $430 million for fiscal years 1994 and 1995, and $450 million for fiscal year 1996.

Sec. 436, Section 22 - Safety and Substance Abuse. Section 436 would amend the current safety section of the Act,

section 22. The Secretary would be authorized to issue regulations requiring recipients of UMTA assistance, as a condition of receiving such assistance, to implement mandatory drug and alcohol testing programs applicable to safety workers.

Current section 22, which authorizes the Secretary to investigate conditions which create a serious hazard of death or injury, and to require a recipient to develop and implement a corrective action plan to address any such conditions, would remain unchanged at subsection (a).

Section 436 would then add a new subsection (b) to section 22, which would authorize the Secretary to issue regulations requiring recipients of section 3, 9, or 18 funds to establish anti-drug and alcohol programs applicable to their safety employees. The programs could include drug or alcohol testing, including random testing, of such sensitive safety employees to assure safety in public mass transit operations. UMTA attempted in late 1989 to require its grantees to establish sensitive safety worker drug testing programs, but the Federal Court of Appeals for the District of Columbia Circuit held in early 1990 that UMTA lacked statutory authority to impose such a national drug testing program. In response to this decision, section 330(b) would specifically authorize UMTA to impose such programs for drug and alcohol detection and prevention.

In addition, because of the overriding national importance of this issue, this section would provide that any such UMTA drug or

alcohol testing regulation would preempt any State or local law to the contrary.

Finally, appropriate terms have been statutorily defined, such as "random testing."

The drug and alcohol tenting requirements would be implemented by means of a self-certification by the recipient. Any failure to implement this program in accordance with UMTA regulations would result in the suspension of Federal assistance until the programs were implemented properly.

Sec. 437, Section 23 - Program Management Oversight. Section 437 would amend section 23(a) of the Act, which provides funds for UMTA's project management oversight program. Under this program, up to 1/2 of 1 percent of the funds made available each year for sections 3, 9, and 18 of the UMT Act, the interstate-transfer program (23 U.S.C. §103(e)(4)), and the funding source for the Washington, D.C. Metrorail system (the National Capital Transportation Act) are available to UMTA to hire construction managers to provide oversight of major capital projects funded by UMTA. UMTA uses this project management oversight function typically on new rail starts or related large-scale construction projects where it has provided invaluable assistance to UMTA and those constructing the projects. Moreover, a provision in the Department of Transportation's FY 1990 appropriations act amended the UMT Act to expand this authority to include safety, procurement, and financial audits of UMTA grantees.

Because the program has been so successful, and because the program has been expanded by Congress, the bill would increase the

takedown for the program from its current 1/2 of 1 percent of the affected programs to 3/4 of 1 percent. This additional funding would enable the agency to increase its oversight responsibilities.

In addition, there is one essentially technical problem with the program. Existing section 23(a) provides that 1/2 of 1 percent of the funds available for each of the separate affected sections may only be used for project management oversight of projects funded under that particular section. This approach has limited UMTA's ability to freely move the funds about to be used as needed on different projects. Section 437 thus would correct this problem by combining all of the project management oversight funds available under the different sections into one pool, to be used at the agency's discretion for any eligible projects under any of the affected sections. As noted, this would essentially be a technical change that would not increase or decrease the amount of funds to be made available under the program, nor would the requirements of section 23 otherwise be changed or affected. Rather, the agency would be able to more effectively carry out the project management oversight program by the increased flexibility in the use of funds section 437 would provide.

Sec. 438, Section 26 - Planning and Research. Section 438 would refocus the planning and research functions of the agency by adding a new Section 26 to the Act.

Section 26(a) would provide for a national planning and research program to be administered by the Secretary. Of the 2.8 percent of the combined Transit Account and authorization

available for section 26, one third would be available for the national program. The Secretary would be authorized to use those funds for grants or contracts in accordance with sections 6, 8, 10, 11, 18(h) or 20 of the Act.

Section 26(a)(2) would allow the Secretary to charge and retain and then use for the purposes of section 26(a)(1) tuition, fees, or other amounts realized by the various conferences, seminars, training seminars, or other projects authorized under section 26. The Secretary also would be given authority to determine what constitutes a necessary expense to conduct activities under this subsection.

Section 26(a)(3) would provide the Secretary with up to 25 percent of the section 26 funding for special initiatives. In connection with these initiatives the Secretary could waive any requirement the Secretary deems appropriate in order to facilitate special projects.

Section 26(a)(4) would authorize the Secretary to undertake a program of transit technology development in coordination with affected entities. The Secretary would establish an Industry Technical Panel composed of representatives of transportation operators and suppliers, but with a majority of representatives from the suppliers. The Panel would assist the Secretary in the identification of technology development areas and in developing guidelines for project development. The Secretary would also develop guidelines on cost sharing principles for technology development projects.

Section 26(a)(5) would permit the Secretary to use funds under this subsection to supplement funds under the transit cooperative research program, discussed below.

Section 26 (a)(6) would authorize the Secretary to impose an appropriate local share in connection with any grant or contract that would give a clear and direct financial benefit to an entity.

The remaining two thirds of the funds authorized would be made available for a new State and local program, as outlined in section 26(b). Sixteen and 1/2 percent of this amount would be available for a transit cooperative research program to be administered by an independent governing board established by the Secretary. The mass transit projects the board recommends to be carried out would be done by means of grants or cooperative agreements from the Secretary to the National Academy of Sciences.

Of the remaining 83 1/2 percent, 25 percent would be available to the States on the basis of population for grants or contracts consistent with the purposes of sections 6, 8, 10, 11, 18(h), or 20 of the Act, and 75 percent would be available to the States on the basis of population to be allocated to Metropolitan planning organizations for contracts or grants consistent with those same sections of the Act.

Section 26(b) also provides that, of the funds set aside under section 26(b)(2)(B)(1), at least one third is to be available for rural transportation assistance program activities which, as under current law, would have a 100 percent Federal share.

Section 26(c) provides for a number of adjustments in the amounts provided under Section 26 to hold current programs harmless. Section 26 (c)(1) addresses the situation in which the amount metropolitan planning organizations (MPO's) would receive through the States is smaller than the amount they now get directly under Section 8. In such a case, funds would be moved from the section 26(a) National Program to section 26(b) State and Local Program for allocation to the States. Section 26(c)(2) addresses the situation in which the formula for allocation of the State and Local Program funds to the States does not provide enough funds to certain States to ensure that MPO's in those States get as much as they did in FY 1991. In these cases, the amounts allocated to the States would be adjusted to ensure that the MPO's in these States get at least as much as in FY 1991. Finally, section 26(c)(3) addresses the situation in which a State would not have as much remaining for State Programs, including the Rural Transit Assistant Program (RTAP) as it does now, but where the amount for MPO's in that State would be in excess of the amounts now granted directly to the MPO's in that State. In such a case, the State could use more of its total allocation than the 25 percent provided for under section 26(b)(2)(B)(1) for State programs, including RTAP, so long as MPO's continue to get at least as much as they got in FY 1991.

Sec. 439, Technical Accounting Provision. Section 439 would make a technical amendment to correct certain administrative difficulties resulting from current accounting and Department of

Treasury practices. For example, certain section 18 funds are administered under three separate Treasury accounts.

Accordingly, this provision simply would allow any funds appropriated before October 1, 1983, that remain available for expenditure after October 1, 1991, to be accounted for under one account for that particular section of the Act. In short, older unobligated appropriations would be merged into the current appropriation for the particular activity. This provision would not affect in any way the availability of the funds involved.

Section-By Section Analysis

TITLE V - HIGHWAY REVENUE ACT OF 1991

Sec. 501, Short Title, provides that title V may be cited as the "Highway Revenue Act of 1991."

Sec. 502, Amendment of 1986 Code, provides that references in title V to a section or other provision are references to the Internal Revenue Code of 1986.

Sec. 503, Three Year Extension of Highway Trust Fund Taxes and Related Exemptions, provides a 3 year extension of HTF taxes, exemptions and other related provisions through September 30, 1998.

Sec. 504, Three Year Extension of Highway Trust Fund, provides a 3 year extension of the HTF and provides for HTF expenditures for qualified projects and for traffic safety and cost savings programs.

Sec. 505, Reduction of Fuel Taxes, reduces the gasoline, diesel and special fuels taxes and the amounts going into the Mass Transit Account of the HTF to the levels in effect on November 30, 1990, effective October 1, 1995.

Sec. 506, Effective Date, provides that the effective date of the Highway Revenue Act of 1991 is October 1, 1991.