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NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1995

MAY 22 (legislative day, MAY 15), 1995.—Ordered to be printed

Mr. CHAFEE, from the Committee on Environment and Public Works, submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany S. 440]

The Committee on Environment and Public Works, to which was referred the bill (S. 440), to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill do pass.

GENERAL STATEMENT

BACKGROUND

National Highway System

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) requires Congress to designate the National Highway System (NHS) by September 30, 1995. ISTEA authorized a 6-year total of $21 billion for the proposed NHS. Without passage of the NHS bill, States will not receive their annual apportionments of approximately $6.5 billion, beginning on October 1, 1995. This $6.5 billion consists of $3.6 billion in annual apportionments for the NHS and $2.9 billion for Interstate Maintenance.

The purpose of the National Highway System as stated in ISTEA is "to provide an interconnected system of principal arterial routes which will serve major population centers, international border crossings, ports, airports, public transportation facilities, and other

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intermodal transportation facilities and other major travel destinations; meet national defense requirements; and serve interstate and regional travel."

The Secretary of Transportation has transmitted to Congress a system map of routes to be included on the final NHS. The NHS as designated is comprised of approximately 159,000 miles of which 119,000 miles are rural and 40,000 miles are urban. ISTEA requires 67,500 miles as components of the NHS. These components consist of: 45,000 miles of Interstate highways; 4,500 miles of high priority corridors identified in ISTEA; 15,700 miles of non-Interstate Strategic Highway Network routes (STRAHNET); and 1,900 miles of STRAHNET connectors. The remaining 91,000 miles of the NHS were identified by the States in cooperation with local officials and the Federal Highway Administration (FHWA).

Congress will not approve or disapprove any modifications made to the NHS subsequent to enactment of this legislation. At the request of a State, the Secretary may add a new route segment to the NHS or delete an existing route segment and any connection to the route segment, as long as the segment or connection is within the jurisdiction of the requesting State and the total mileage of the NHS does not exceed 165,000 miles.

According to the FHWA, the NHS carries over 40 percent of the nation's highway traffic and 70 percent of its truck freight traffic. The NHS represents 4 percent of the country's 4 million miles of public roads.

Over 90 percent of the U.S. population lives within 5 miles of an NHS road. The NHS serves 93 percent of small urban areas with populations of between 5,000 and 50,000. The small urban areas are within 5 miles of the system, as are all urbanized areas with populations over 50,000. Urban roads make up 26 percent of the NHS and the remaining 74 percent is comprised of rural roads. Furthermore, 98 percent of all roads that make up the NHS have already been built. The NHS will allow States to focus their investments on connecting rail, air, commercial water ports, and highways so that performance of the entire system can be maximized.

Nearly 90 percent of U.S. counties have NHS mileage running through them. These counties account for 99 percent of all manufacturing jobs, 97 percent of the mining jobs, and 93 percent of all farming jobs.

The development of the NHS was carried out by the U.S. Department of Transportation through the FHWA in cooperation with the States. The FHWA and the States cooperatively developed the system based on criteria of efficiency, connectivity, and equity among States. State and local officials were actively involved in the process, especially in the identification of routes. Although local approval was not required by ISTEA, the local officials (Metropolitan Planning Organizations, or MPOs) in 30 States endorsed the State-submitted NHS.

The FHWA determined that traffic volume, service to destination points, and interstate, intrastate, and interregional connectivity were useful indicators of efficiency. These indicators became the analytical criteria for including individual routes in the illustrative system. Another important element that the FHWA considered was

the mileage distribution among the States and between urban and rural areas.

Road density (miles of road per square mile of land area), travel density (vehicle miles traveled per mile of roadway), and percentage for statewide travel served were the major factors used to achieve rural mileage equity among the States.

To establish the urban mileage targets, the FHWA analyzed several proposed systems submitted by the States and MPOs representing urbanized areas of varying sizes. The FHWA analyzed the ability of these systems to connect with important interstate and intrastate routes and to serve major traffic generators within the urbanized areas. Based upon this analysis, the FHWA identified an NHS urban mileage target of 6 percent of total urban road and street mileage. This provided an equitable system for all States and provided travel service consistent with the rural component.

Section 1006(c) of ISTEA also required the States to complete a functional reclassification of all public roads and streets and required the Secretary of Transportation to use the functional reclassification in preparing the NHS. Reclassification was important for the NHS designation process because it identified roads eligible for designation as NHS routes. Under ISTEA, only principal arterials are eligible as NHS routes, unless they are part of the STRAHNET.

Cooperation among the States over many years had resulted in generally recognized interstate and interregional routes that connected across State borders. In cases where inconsistencies existed, FHWA consulted with the States and made determinations of routes to be included based on considerations such as traffic volumes, connectivity and service to destinations as well as inclusion of routes in existing State longrange plans.

Woodrow Wilson Memorial Bridge

The construction of the 6-lane Woodrow Wilson Memorial Bridge was authorized by Congress in 1954 (Public Law 83–704) to provide an interstate highway connection between Maryland and Virginia across the Potomac River. The Bridge was built by the Department of Commerce, which, at that time, included the Bureau of Public Roads. The Bridge was transferred later to the Department of Transportation and was opened in 1961.

As owner of the Bridge, the Federal Government is responsible for annual rehabilitation costs to ensure that the Bridge meets Federal safety standards. Since 1961, Virginia, Maryland, and the District of Columbia have financed the annual operation and maintenance costs.

The Woodrow Wilson Memorial Bridge remains the only segment of the 44,000-mile Interstate Highway System that is owned by the Federal government. The Bridge was designed 40 years ago to carry 75,000 vehicles per day, with 10 percent of the traffic consisting of heavy trucks. Today, the Bridge carries 167,000 vehicles per day, and 11 percent of that volume is truck traffic.

This facility is the only bascule span drawbridge on the regional Interstate network, the only segment of the region's 8-lane Capital Beltway that is limited to six lanes, and the only section of the Capital Beltway with a remaining lifespan of less than 10 years.

Congress has recognized the responsibility of Federal ownership of the Bridge and has provided funding for reconstruction, resurfacing, restoration and rehabilitation of the Bridge. The Federal-Aid Highway Act of 1981 provided funds for the Department to undertake a major resurfacing and redecking project. In 1985, a new agreement was executed between the Federal government and Virginia, Maryland and the District of Columbia which required the Federal government to fully rehabilitate the Bridge and to provide Federal funds for future reconstruction and widening before ownership of the Bridge was transferred to the States and the District.

In fulfilling the terms of this agreement, it was recognized that the rehabilitation needs of the Woodrow Wilson Bridge were significant. A 1994 study commissioned by the Federal Highway Administration to assess the current condition of the Bridge confirmed that annual repairs fail to extend the useful life of the facility and are no longer cost-effective. The report concluded that unless a new facility is constructed within the next 9 years, significant truck size and weight restrictions may be imposed to address safety concerns on this segment of the Capital Beltway.

Section 1099 of ISTEA established the Interstate Study Commission to examine the existing planning and implementation mechanisms to meet transportation demands in the National Capital Region. Appointed in 1992, the Commission submitted its final report to the Congress in December, 1994. The Commission found that the region's transportation planning process was responsive to the region's needs, but that other innovative options were necessary to facilitate the implementation of transportation projects.

The consensus of the Commission was a recommendation "that an interstate authority be established to finance, build and operate a Potomac River crossing (as recommended by the Woodrow Wilson Bridge Coordination Committee and endorsed by the National Capital Region Transportation Planning Board)." Title II implements the Commission's findings by creating an interstate authority to serve as a financing mechanism to facilitate the construction of a replacement facility and to provide for the transfer of ownership of the Bridge from the Federal government to the interstate authority.

Congressional legislation

Congress is required by law to designate the National Highway System (NHS) by September 30, 1995. Section 1006 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) provides, "[N]o funds made available for carrying out this title may be apportioned for the National Highway System or the Interstate Maintenance program under this title unless a law has been approved designating the National Highway System." If the Congress does not enact the designation by the September 30 deadline, the States will not receive their NHS or Interstate Maintenance funds starting October 1, 1995. At stake is $6.5 billion per year.

During the 103d Congress, the Committee reported S. 1887, the National Highway System Designation Act of 1994, a bill to approve the most recent NHS submitted to Congress by the Secretary of Transportation. The Senate unanimously approved S. 1887 on September 22, 1994.

On May 25, 1994, the House of Representatives approved H.R. 4835, its own NHS designation package. In addition to the approval of the NHS, H.R. 4835 included other transportation provisions. Because of the difference between the House and Senate measures, the NHS designation was not approved by the 103d Congress prior to adjournment.

On February 16, 1995, Senator Warner, Chairman of the Subcommittee on Transportation and Infrastructure, introduced S. 440, the National Highway System Designation Act of 1995, to approve the NHS designation. Since that time, the Subcommittee has held four hearings on the NHS and the related issues of the Department of Transportation fiscal year 1996 budget; Clean Air Act/transportation conformity requirements; ISTEA safety and environmental requirements; and innovative financing proposals.

The bill, as amended, was ordered reported unanimously, by rollcall vote of 9 to 0, from the Subcommittee on May 3, 1995. The Full Committee ordered the bill reported, as amended, on May 10, 1995, by a rollcall vote of 15 to 1.

THE REPORTED BILL

The reported legislation contains two titles. Title I designates the NHS, and amends the current surface transportation law to provide greater flexibility to the States and to reduce certain administrative burdens. Title II establishes a Regional Interstate Transportation Authority to own, construct, maintain, and operate a new crossing of the Potomac River on Interstate 495 at the present location of the Woodrow Wilson Memorial Bridge.

TITLE I—HIGHWAY PROVISIONS

Title I designates the most recent National Highway System that the Secretary of Transportation has submitted to Congress at the time of enactment. The legislation as reported does not designate any new NHS mileage; however, it permits the Secretary to add or delete routes to the system, provided that the total mileage of the NHS does not exceed 165,000 miles. The bill designates certain already existing NHS routes as High Priority Corridors.

Title I upholds the core principles of ISTEA by providing Federal-aid eligibility for public highways connecting the NHS to intermodal facilities. The legislation makes technical corrections to specific ISTEA provisions to enable the States to better utilize their NHS funds. It also provides the States with greater flexibility in their infrastructure investment decisions. Certain measures to relieve the States from the administrative burdens involved in management systems, transportation enhancements, and metric requirements, are also in the bill.

Specifically, the bill includes the following substantive changes to current law:

Innovative finance—Current Federal restrictions on Interstate tolls are repealed. States may credit private sector donations 100 percent to the State cost share, and the costs associated with bond financing are eligible for Federal-aid highway funds. Because of the shrinking Federal budget, it is important to find new sources of capital for transportation infrastructure as well as new ways to le-

verage existing sources. It is imperative to give States increased flexibility and to increase the private sector's access to various methods of funding the three stages of a project: design development, construction, and longterm financing.

Transportation conformity requirements—Conformity requirements apply to Clean Air Act nonattainment areas and nonattainment areas that have been redesignated as "maintenance" areas. The amount of money each State receives under its Congestion Mitigation and Air Quality (CMAQ) improvement program will stay at fiscal year 1995 levels, regardless of a nonattainment area's redesignation to maintenance, or additional areas designated as nonattainment.

Design standards—On non-Interstate NHS roads, States are given the flexibility to use design standards that address environmental, scenic, historic, community and other intermodal concerns.

Management systems—States are no longer required to implement the six management systems required in ISTEA.

Transportation enhancements—The process for implementing the transportation enhancement program is streamlined.

Preventive maintenance—States may use Federal-aid funds for the cost-effective preventive maintenance of all Federal-aid highways.

Rubberized asphalt—The rubberized asphalt sanction in ISTEA is repealed. A crumb rubber modifier research and development program is established to develop better mix designs, perform field tests, and expand State programs.

Recreational trails—The National Recreational Trails Program will receive $15 million in contract authority for each of fiscal years 1996 and 1997.

National maximum speed limit—The national maximum speed limit is repealed.

Davis-Bacon—The prevailing wage requirement no longer applies to any project authorized by title 23, United States Code.

TITLE II—THE WOODROW WILSON BRIDGE

Title II provides Federal authorization to the Commonwealth of Virginia, the State of Maryland, and the District of Columbia to establish the National Capital Region Interstate Transportation Authority; and to authorize the transfer of ownership of the Woodrow Wilson Bridge to the authority for the purpose of owning, constructing, maintaining, and operating a bridge or tunnel or a bridge and tunnel project across the Potomac River.

Title II provides $17.5 million in contract authority for fiscal year 1996 and $80 million in contract authority for fiscal year 1997 for the rehabilitation of the bridge and the planning, design and right-of-way acquisition for a new crossing of the Potomac River. Title II also requires the Secretary of Transportation to submit to Congress by May 31, 1997 a report identifying the Federal share of constructing a new crossing.

SECTION-BY-SECTION ANALYSIS

TITLE I—HIGHWAY PROVISIONS

Section 1. Short title; table of contents

Section 1 titles this bill as the "National Highway System designation Act of 1995".

Sec. 101. National Highway System designation

Section 101 approves the most recent National Highway System (NHS), submitted to Congress by the Secretary of Transportation. The section also specifies the procedure for future changes and modifications to the NHS after Congress has adopted the initial system. At the request of a State, the Secretary may add a new route segment to the NHS or delete an existing route segment and any connection to the route segment, as long as the segment or connection is within the jurisdiction of the requesting State and the total mileage of the NHS (including any route segment or connection proposed to be added) does not exceed 165,000 miles.

If a State requests a modification to the NHS as adopted by Congress, the State must establish that each change in a route segment or connection has been identified by the State in cooperation with local officials. This cooperative process between the State and local officials will be carried out under the existing transportation planning activities for metropolitan areas and the statewide planning processes established under ISTEA.

Congress will not approve or disapprove any modifications made to the NHS subsequent to enactment of this legislation. The cooperative planning process between State and local officials, along with the approval of the Secretary, is the appropriate forum for considering modifications to the NHS following enactment of this legislation.

The State of Oklahoma has requested a functional reclassification of US–81 from Duncan, Stephens County, Oklahoma southward 44.1 miles to the Oklahoma/Texas State line north of Ringgold, TX, as a rural principal arterial. If this portion of US–81 is reclassified as a rural principal arterial, it will be eligible for designation on the National Highway System and should be included as part of the NHS. It is expected that the Federal Highway Administration will give prompt consideration to any request regarding US–81 by the State of Oklahoma.

Sec. 102. Eligible projects for the National Highway System

Section 102 amends subsections 101(a) and 103(i) of title 23, United States Code, to permit States to use NHS funds for the costs of operating traffic management, monitoring, and control facilities and programs for an indefinite period, in lieu of the 2-year period set forth in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). This section will make the eligibility of NHS funds and Surface Transportation Program (STP) funds for such costs the same.

Under current law, States may use Federal-aid funds for operations of traffic control systems which use Intelligent Transportation System technology. This section permits States to use Fed-

eral-aid funds for the maintenance of these systems as well. It is difficult to draw a distinction between operation and maintenance of these high technology systems. System reliability is critical to public benefit and timely maintenance is an integral part of ensuring proper operations and lowest life-cycle costs. The maintenance required to keep traffic control systems operating is considered as part of the cost of operation.

Section 102 amends subsection 103(i) of title 23, United States Code, to allow the construction, reconstruction, resurfacing, restoration, and rehabilitation of, and operational improvements for, any public road, regardless of its functional classification, which connects the National Highway System to any port, airport, rail, truck or other intermodal freight transportation facility and public transportation facility. The intent of this section is that public roads that provide access to intermodal facilities are eligible for these funds. Therefore, public roads which do not provide access to another mode of transportation are not included as eligible by this section.

This section adds construction and operational improvements for the Alameda Transportation Corridor (between the ports of Los Angeles and Long Beach to Interstate 10 in central Los Angeles) to the list of projects eligible for the National Highway System. The Alameda Transportation Corridor is a rail freight and highway transportation project, which will expedite the movement of containers between the Los Angeles/Long Beach harbor complex and intermodal rail yards in downtown Los Angeles. The project will consolidate four rail lines constituting 90 miles of track into a single, 20-mile, high-capacity corridor for truck and train traffic. It will also reduce air pollution and traffic congestion and improve highway safety by eliminating numerous highway-railroad grade crossings and improving access to port facilities.

Sec. 103. Transferability of apportionments

Section 103 amends subsection 104(g) of title 23, United States Code, by increasing the percentage of Highway Bridge Replacement and Rehabilitation Program (HBRRP) apportionments that the States can transfer to their NHS or surface transportation program accounts. The percentage is increased from 40 percent to 60 percent.

Sec. 104. Design criteria for the National Highway System

Section 104 amends section 109 of title 23, which relates to standards for proposed highway projects, to indicate that planned, as opposed to merely probable, future traffic needs should be met by the proposed project. This change recognizes that it may not be possible to meet all probable future traffic needs, and allows approval of projects that are designed to meet planned amounts of traffic.

In addition, section 109(c) is amended to assure that the "constructed" and "natural" environment, the environmental, scenic, aesthetic, historic, community, and preservation impacts, and access to other modes of transportation are considered in the design of the National Highway System projects for new construction, reconstruction, resurfacing (except for maintenance resurfacing), res-

toration, or rehabilitation. This does not apply to Interstate System projects. The section further directs the Secretary, in cooperation with State highway agencies, to develop National Highway System criteria for such projects that include the consideration of factors noted above. The Secretary shall also consider the results of the AASHTO committee process, as set forth in its "Policy on Geometric Design of Highways and Streets," after appropriate public input.

Section 109(q) of title 23 is amended to allow the Secretary to approve projects for the National Highway System, including the Interstate System, that may not meet the criteria developed in response to subsections (b) and (c) but are designed to preserve environmental, scenic, or historic values; to ensure safe use of the facility; and to comply with subsection (a). Under existing law, States have the flexibility to determine design standards for all non-NHS Federal-aid highways and bridges. The specific reference in subsection (q), therefore, is no longer necessary. States continue to have the flexibility to approve projects that may not meet the criteria in subsections (b) and (c) but are designed to preserve environmental, scenic, or historic values on all non-NHS Federal-aid highways, and NHS projects which cost less than $1 million.

The application of Interstate design standards across all NHS routes or the application of a design standard higher than warranted by the type of traffic using the particular NHS route is inappropriate and counterproductive. A single NHS design standard is unnecessary. Given the wide recognition that at times it will be neither possible nor desirable to develop facilities that meet forecast travel, these facilities should be designed for planned future traffic. The State transportation departments are given the flexibility to determine the most appropriate level of design for particular routes and to use approved criteria based on functional classification, type of traffic, safety, environmental, scenic, aesthetic, historic, community and preservation concerns, as well as enhancing access for bicycle and pedestrian traffic. There will be a liberal design exception process for the specified considerations as long as the safe use of the facility is ensured. There has been collaborative work between AASHTO and representatives of organizations with expertise in safety, environmental, scenic, aesthetic, historic, community and preservation issues to identify good design practices. This collaboration is encouraged to continue.

Sec. 105. Applicability of transportation conformity requirements

Section 105 amends section 109(j) of title 23 to confirm that the transportation conformity requirements of the Intermodal Surface Transportation Efficiency Act of 1991 and the Clean Air Act Amendments of 1990 apply only to areas designated as "nonattainment" under the Clean Air Act, and to areas that have been redesignated as attainment, but that are still subject to the maintenance plan requirements of the Clean Air Act section 175A (24 U.S.C. 7505a). Nonattainment areas are those geographical areas that have been designated as nonattainment under section 107(d) of the Clean Air Act (42 U.S.C. 7404(d)) because they do not meet national primary or secondary ambient air quality standards for certain pollutants. The transportation conformity provisions of ISTEA

and the Clean Air Act Amendments of 1990 serve to link transportation plans and projects with a State's plan to reduce pollutant emissions identified in State Implementation Plans (SIPs) required under the Clean Air Act.

Section 105 also clarifies that areas designated as nonattainment under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) are required only to conduct a conformity analysis for those specific transportation-related pollutants for which an area is designated nonattainment.

This section supports EPA's determination in the existing transportation conformity regulation (58 Fed. Reg. 62, 188 (Nov. 24, 1993) that the conformity program should not be applied to attainment areas, and eliminates the ambiguity that was the basis of a recent U.S. District Court decision (*Environmental Defense Fund v. Browner*, NO. C–92–1636 THE (N.D. Cal. Feb. 10, 1995) that would mandate that transportation conformity requirements be applied to attainment areas.

Sec. 106. Use of recycled paving material

Section 106 repeals subsection 1038(d) of the ISTEA and replaces it with a new provision. Subsection 1038(d) contains the mandate and penalty provisions for the use of recycled scrap tire rubber in asphalt pavements. All other provisions of Section 1038 would remain in force. States may construct pavements containing recycled rubber with Federal funds and FHWA will continue technology transfer and research efforts required under section 1038.

The new subsection 1038(d) requires the Federal Highway Administration, within 180 days after the date of enactment of this Act, to begin development of testing procedures and conduct research to develop performance grade classifications, in accordance with the Strategic Highway Research Program (SHRP), for crumb rubber modifier binders. These testing procedures and performance grade classifications are to be developed in consultation with representatives of the crumb rubber modifier industry and other interested parties.

Section 106 also requires the FHWA to make grants of up to $500,000 to each State for the development of programs to use crumb rubber from scrap tires to modify asphalt pavements. These grants may be used to develop mix designs, for placement and evaluation of field tests and for the expansion of State crumb rubber modifier programs in existence on the date the grant is made available.

This section provides funding for these research and grant programs from previously authorized funds under section 6005 of the ISTEA for section 307(e)(13) of title 23. This section directs that $500,000 be expended for the research in fiscal year 1996, and $10 million be expended in each of the fiscal years 1996 and 1997 for grants to States to develop crumb rubber modifier programs. The funds for section 307(e)(13) of title 23 are deducted from FHWA's general operating expenses.

In addition, this section strikes the definition of the term "asphalt pavement containing recycled rubber" as it appears in paragraph 1038(e)(1) and redefines it as "any mixture of asphalt and crumb rubber derived from whole scrap tires, such that the phys-

ical properties of the asphalt are modified through the mixture, for use in pavement maintenance, rehabilitation, or construction applications."

The purpose of Section 106 is to continue to encourage States to use crumb rubber modifier materials in cost-effective pavement construction applications. This is accomplished in this section through grants to States instead of a State minimum-use requirement.

Sec. 107. Inapplicability of Davis-Bacon Act to highway programs

Section 107 amends section 113 of title 23 to state that the Act, commonly known as the Davis-Bacon Act, requiring the payment of prevailing wages on Federal construction contracts does not apply with respect to any project carried out or assisted under any chapter of title 23, United States Code. Any applicable State minimum wage rates (i.e., "Little Davis-Bacon" rates) continue to apply, however, to Federal-aid projects. The Davis-Bacon Act will not apply to direct Federal highway construction projects.

The existing section 113 of title 23 requires the payment of a prevailing minimum wage rate to all laborers and mechanics employed for work performed on Federal-aid highway construction projects. The Davis-Bacon Act, which is the source of this requirement, was enacted in 1931 to prevent contractors from using cheap labor to unfairly compete with local firms for Federal public works projects. Since that time, Congress has enacted the Federal minimum wage and other labor protections to protect against such unfair competition. Therefore, the Davis-Bacon requirement is no longer necessary.

Section 107 improves the existing Federal-aid highway program in several ways. First, the costs saved by the repeal promote the more effective utilization of limited highway resources and strengthen the efforts to reduce the Federal deficit. The prevailing wage requirement inflates the costs of highway construction. According to the Congressional Budget Office's most recent statistics, the repeal of Davis-Bacon for title 23-related projects would save the Federal highway program $721 million annually. The States can use this cost-savings to address more compelling needs, such as the replacement of deteriorating roads and bridges.

Second, the repeal of section 113 expands the economic opportunities available to lower wage workers. The existing law protects large national construction firms and union laborers at the expense of smaller, independent firms and less skilled workers, particularly minorities and women. The end result under current law is higher unemployment rates and increased taxes. Section 107 creates a level playing field for all workers and reduces the nation's tax burden.

Finally, Section 107 alleviates the costly requirements of complying with Davis-Bacon. Under current law, contractors and subcontractors are required to submit weekly wage reports and certification of wages. The repeal of these administrative burdens promotes efficiency and expedites the completion of highway projects.

Sec. 108. Limitation on advance construction

Section 108 amends section 115(d) of title 23, United States Code, to permit the Secretary to approve an application for advance construction provided the project is on the State's transportation improvement program (STIP). The STIP is fiscally constrained under section 135(f) of title 23. The current limitation on advance construction requires that an authorization be in effect one year beyond the fiscal year for which the application for advance funding is sought, thus limiting the States' flexibility to advance construct in the final year of a multiyear authorization act, even though the life of the Highway Trust Fund extends beyond the authorization period. This section provides greater flexibility to the States to engage in advance construction and is consistent with sound fiscal management of the Highway Trust Fund.

Sec. 109. Preventive maintenance

Section 109 amends section 116 of title 23 to expand Federal-aid participation in preventive maintenance activities to include those preventive maintenance activities on Federal-aid highways that States demonstrate to the satisfaction of the Secretary will be cost-effective means of extending the life of highways. The only identified preventive maintenance activities currently eligible for Federal-aid participation are those performed on the Interstate System that are demonstrated through a pavement management system to be a cost-effective means of extending Interstate pavement life.

Sec. 110. Eligibility of bond and other debt instrument financing for reimbursement as construction expenses

Section 110 provides that eligible bond or debt financing instrument costs include bond and debt financing instrument principal and interest, and other costs associated with bond or debt financing instrument issuances, provided that the proceeds of such bonds or debt financing instruments are used on eligible Federal-aid projects. Existing section 122 of title 23, United States Code, relating to payments to States for bond retirement, limits Federal participation to retirement of bond principal on the former Federal-aid primary and urban systems, and to Interstate substitute projects (and authorizes participation in interest and incidental costs as well as principal retirement, in connection with the sale of such bonds relating to Interstate System projects).

Since enactment of the Intermodal Surface Transportation Efficiency Act of 1991 eliminated the Federal-aid primary, secondary, and urban systems, and provided greater flexibility to the States, this section clearly defines eligible bond costs, provides greater flexibility and broadens eligibility to States for Federal-aid projects constructed with bond or debt financing instrument proceeds, and permits States to leverage additional infrastructure investment. At the same time, this section makes clear that although bond or debt financing instrument costs are eligible for Federal participation (as a cost of construction under section 101 as amended), such eligibility does not constitute a Federal commitment, obligation or guarantee, thus preserving the tax exempt status of any State issued bonds or debt financing instruments under sections 103 and 149(b)

of title 26 thereby attracting additional investment in such issuances at a lower cost to the State.

This section also makes a conforming amendment to the definition of "construction" in section 101(a) of title 23, inserting "bond costs and other costs relating to the issuance of bonds or other debt instrument financing in accordance with section 122" to the definition.

Sec. 111. Federal share for highways, bridges, and tunnels

Section 111 amends paragraph 129(a)(5) of title 23, United States Code, to provide that the Federal share for participation in toll highways, bridges and tunnels shall be a percentage as determined by the State, but shall not exceed 80 percent. The current maximum Federal share for toll facilities ranges from 50 to 80 percent depending on the type of toll facility, the type of work, and the status of prior toll agreements for the toll facility. This change simplifies the Federal share provisions and provides for a more consistent Federal share for eligible Federal-aid projects on toll facilities.

Sec. 112. Streamlining for transportation enhancement projects

Section 112 amends section 133(e) of title 23 to provide an optional payment provision whereby the FHWA may advance to the State amounts necessary to advance a project: (1) if the State has a process of selecting enhancement projects that involves representatives of affected local agencies and private citizens with expertise related to transportation enhancement activities; and (2) in only those amounts necessary to make prompt payments for project costs. States are permitted to receive annual transportation enhancement activity apportionments in advance rather than as project reimbursements for the purpose of distributing these funds to project sponsors as advance payments at the beginning of the project rather than as reimbursements at the completion of the project.

The advance of funds may be exercised upon the Secretary's annual certification that the State has authorized and utilizes a process for the selection of transportation enhancement projects that includes representatives of affected public and citizen interests.

Section 112 also requires the Secretary to treat enhancement activities as categorical exclusions under the provisions of the National Environmental Policy Act of 1969 (NEPA). Transportation enhancement projects generally have a positive environmental impact and are not major Federal actions for which an Environmental Impact Statement is required. Such actions are typically covered by Categorical Exclusions (CEs) and FHWA has developed several CEs to accommodate some kinds of enhancement projects. There are categories of enhancement activities, however, that are not compatible with any existing CE. This section does not alter in any way NEPA's important public policy objectives. It retains the protection of NEPA in the unlikely event that an enhancement project will significantly affect the environment.

Finally, this section requires the Federal Highway Administrator, in consultation with the National Conference of State Historic Preservation Officers and the Advisory Council on Historic Preservation, to develop a nationwide programmatic agreement

governing the review of transportation enhancements under section 106 of the National Historic Preservation Act and the regulations of the Advisory Council on Historic Preservation.

Sec. 113. Non-Federal share for certain toll bridge projects

Section 113 amends section 144(l) of title 23 to allow any non-Federal funds expended for the seismic retrofit of the Golden Gate bridge described in section 144(l) to be credited towards the required non-Federal match of Federal-aid seismic retrofit projects authorized for this bridge. Section 113 permits the Golden Gate Bridge, Highway and Transportation District to proceed with the seismic protection project with non-Federal funding without prejudice that these funds would not be considered a cost share for possible future Federal funding. The California Governor's Board of Inquiry in 1990 following the Loma Prieta earthquake recommended retrofitting the structure. The District has set aside local financing to complete seismic engineering and to creating a 20 percent local cost share for the construction.

The Golden Gate Bridge is a designated part of the National Highway System and is the only highway artery connecting San Francisco on U.S. Highway 101 with the coastal counties to the north. The bridge carries 130,000 vehicles a day, and is vulnerable to a moderate earthquake along two major fault lines in its vicinity.

Sec. 114. Congestion Mitigation and Air Quality Improvement Program

Section 114 freezes the amount of money each State receives under the Congestion Mitigation and Air Quality Improvement (CMAQ) Program at the fiscal year 1995 level. Geographical areas that are redesignated to attainment status or areas that are newly designated as nonattainment will not affect a State's CMAQ apportionment. This section also allows the States to use their funds apportioned under the CMAQ program in any such maintenance area, as well as in other nonattainment areas, within the State.

Under this section as under current law, CMAQ funds may not be used for projects in areas designated as "transitional" or "incomplete data" nonattainment areas for ozone or in "not classified" nonattainment areas for carbon monoxide.

Subsection (b) of this section lifts the previous restriction against using CMAQ funds for the removal of pre-1980 vehicles ("scrappage" programs) and for programs to reduce motor vehicle emissions resulting from extreme cold start conditions. It requires that activities under these programs and all programs listed in section 108(f) of the Clean Air Act must be publicly sponsored to be eligible for CMAQ funding.

This section does not alter the obligation of the Secretary, under section 149(B)(1)(A) of title 23, to determine whether projects developed pursuant to section 108(f)(1)(A) of the Clean Air Act are "likely to contribute to the attainment of a national ambient air quality standard." For automobile scrappage programs that are eligible for CMAQ funding pursuant to this section, the Secretary will apply EPA guidance to such programs, specifically including *Accelerated Retirement of Vehicles*, U.S. EPA, March 1992; *Interim Guidance on*

the Generation of Mobile Source Emission Reduction Credits, 58 Fed. Reg. 11134 (Feb. 23, 1993); and *Guidance on the Implementation of Accelerated Retirement of Vehicles Programs,* U.S. EPA, February 1993.

In the event that scrappage programs developed pursuant to EPA's 1993 guidance generate emission reduction "credits," such credits are not intended to be owned by State and local transportation agencies, but shall be administered by relevant air quality agencies.

Sec. 115. Repeal of national maximum speed limit

Section 115 repeals the National Maximum Speed Limit Compliance Program. Section 154 of title 23, United States Code, states that the Secretary of Transportation shall not approve any project under section 106 of title 23 in any State which has a maximum speed limit on its highways in excess of 55 miles-per-hour (m.p.h.) within urbanized areas of greater than 50,000 population, or 65 m.p.h. on Interstates and other highways outside of such urbanized areas. Section 141(a) of title 23, requires each State to certify annually to the Secretary that it is enforcing all speed limits on public highways in accordance with section 154. Section 115 strikes both sections 141(a) and 154, and makes conforming amendments to title 23 and other laws.

Sec. 116. Federal share for bicycle transportation facilities and pedestrian walkways

Section 116 amends subsection 217(f) of title 23, United States Code, by eliminating the current provision that sets the Federal share for bicycle and pedestrian projects at 80 percent. Instead, the Federal share for these projects will be established under the provisions of subsection 120(b) of title 23. This will permit the States to apply the Federal lands sliding scale match to bicycle and pedestrian projects, thus treating the Federal share for bicycle and pedestrian projects in a similar manner to that allowed for Federal-aid highway projects in general.

Sec. 117. Repeal of restrictions on toll facilities

Section 117 repeals section 301 and amends paragraph 129(a)(1) of title 23, United States Code, to remove the prohibition from the tolling of Federal-aid highways, including the Interstate system. It revises current law to allow a State to use Federal-aid funds to construct new Interstate toll facilities and to convert existing free Interstate highways to toll Interstate highways. Further, it allows a State to convert existing free non-Interstate bridges, tunnels or highways to toll facilities without first having to complete a reconstruction project. The States may impose tolls on any Federal-aid highway.

Sec. 118. Suspension of management systems

Section 118 strikes subsection (c) of Section 303 of title 23 which contains sanctions that could be imposed in the event States do not implement—either in whole or in part—any one of the Management Systems required under ISTEA. This section does not preclude a State from developing any or all of the Management Sys-

tems at the discretion of the State. Should a State choose not to implement a Management System, the Department of Transportation may not withhold any Federal-aid highway funds or project approval.

Section 118 also provides for the Secretary to report, in consultation with the States, on the Management Systems and make recommendations as to whether, to what extent, and how they should be implemented. The report is due by October 1, 1996.

Sec. 119. Intelligent vehicle-highway systems

Subsection (a) of section 119 amends section 6054 of ISTEA to provide the Department of Transportation with authority to administer Cooperative Research and Development Agreements (CRADAs) for the national Intelligent Vehicle-Highways Systems program (now known as the Intelligent Transportation Systems program). This authority includes planning, research, development, and testing activities, all of which are important to encouraging innovative solutions to highway problems and stimulating the marketing of new technology by industry.

Subsection (b) of section 119 amends section 6058 of the ISTEA by adding a new subsection. Subsection 6058(f) requires that funds authorized for certain Intelligent Vehicle-Highway Systems projects be obligated within one year of the end of the fiscal year in which those funds were made available. The Secretary of Transportation may reallocate any funds not obligated by the end of that period to any other activity eligible for funding under subsections 6058(a) and (b).

Sec. 120. Donations of funds, materials, or services for federally assisted activities

Section 120 amends section 323 of title 23, United States Code, to allow private funds and the value of materials and services donated to a specific Federal-aid project to be credited toward the required State share of that project. For materials or services donations to qualify for the credit, they must involve an activity eligible for Federal participation on the Federal-aid project. This will allow the States greater flexibility in the use of leveraged donations on Federal-aid projects and will make the donations credit provisions of title 23 more consistent with the reimbursement provisions established in the Common Rule.

Sec. 121. Metric conversion of traffic control signs

Section 121 provides that, notwithstanding any requirements of the Metric Conversion Act of 1975, no State is required to erect signs which establish speed limits, distance or other measurements using the metric system. If a State chooses to use its Federal-aid highway funds for such a purpose, it may do so.

Sec. 122. Identification of high priority corridors

Section 122 designates an alignment in Virginia, North Carolina, West Virginia, Kentucky, and Ohio for the I–73/74 North-South High Priority Corridor from Charleston, SC, to Detroit, MI, and specifies an applicable Interstate route number for route segments. It also requires the Secretary, at the request of either of the two

States, to designate a route segment as an Interstate route when it is constructed to Interstate standards without regard to whether the segment is a logical addition or connection to the Interstate System as defined by section 139 of title 23. Section 122 creates no Federal financial responsibility for the upgrading of these routes to Interstate standards. States may use their own apportionments under title 23 on these routes. Nothing in this section shall imply that these routes are to be included in any future Interstate Cost Estimate.

Section 122 amends section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 by adding a corridor, described as the I–35 Corridor, from Laredo, TX, to Duluth, MN. This corridor will be eligible to compete for feasibility studies under section 1105(h) of the ISTEA.

Section 122 amends section 1105(c) of the ISTEA by adding, as the 22d High Priority Corridor on the NHS, the Alameda Transportation Corridor from the entrance to the ports of Los Angeles and Long Beach to Interstate 10. As a High Priority Corridor, the Alameda Corridor will be eligible to compete for feasibility studies under section 1105(h) of the ISTEA, and for the revolving loan fund under section 1105(i).

Sec. 123. Revision of authority for innovative project in Florida

Section 123 permits Florida to spend funds available for a magnetic levitation project in the vicinity of Orlando on any regionally significant, intercity ground transportation projects.

Sec. 124. Revision of authority for priority intermodal project in California

Section 124 modifies the description of the highway demonstration project in Los Angeles, CA, authorized by section 1108(b), item 31, of the Intermodal Surface Transportation Efficiency Act of 1991, Public Law 102–240. It changes an itemized project, which now provides for improved ground access from Sepulveda Boulevard to Los Angeles, to provide for projects for the Los Angeles International Airport's central terminal access, for the widening of Aviation Boulevard both north and south of Imperial Highway, and for transportation systems management improvements in the vicinity of the Sepulveda Boulevard/Los Angeles International Airport tunnel.

Sec. 125. National Recreational Trails Funding Program

Section 125 provides contract authority for the National Recreational Trails Funding Program. The Program was established by the Intermodal Surface Transportation Efficiency Act of 1991. This section amends the ISTEA to provide that the Federal share of any trails project funded under the ISTEA Trails Program is 50 percent. The existing State fuel tax requirement is eliminated. Further, this section defines the term "eligible State" to conform with the definition of that term contained in title 23, United States Code. This section also makes a conforming change to the Trust Fund Code of 1981, striking a reference to annual appropriation acts. This section adds a provision to section 104 of title 23 to pro-

vide that the funds authorized shall be expended from those administrative funds deducted under section 104(a).

Sec. 126. Intermodal facility in New York

Section 126 provides an authorization for a total amount of $69,500,000, beginning in fiscal year 1995 and for the following years until expended, from general revenues for a Federal building in New York City in need of repair that will be converted into an intermodal transportation facility, and for necessary improvements to and redevelopment of Pennsylvania Station and associated service buildings in New York City.

Sec. 127. Clarification of eligibility

Section 127 allows the State to use its Federal-aid highway funds apportioned under sections 103(e)(4), 104(b), and 144, of title 23 (NHS, CMAQ, STP, Bridge program and Interstate Transfer) for improvements to a rail freight corridor between Central Falls and Davisville, RI.

Sec. 128. Bristol, Rhode Island, street marking

The Manual on Uniform Traffic Control Devices (MUTCD), establishes the national standard for traffic control devices. Section 3B–1 of the MUTCD, Center Lines states, "The center line marking on two-lane, two-way highways shall be: . . . 3. a double line consisting of two normal solid yellow lines where passing is prohibited in both directions."

Section 128 authorizes an exception to the MUTCD to permit the town of Bristol, RI, to permanently replace the existing double yellow center line on its Main Street with a red, white, and blue center line. A red, white, and blue line has been used temporarily in the past in conjunction with the town's longstanding Fourth of July parade which is the oldest in the country.

Sec. 129. Public use of rest areas

Section 129 allows, upon request of the State, the conversion of the use of any rest area adjacent to I–95 in Rhode Island that was closed on May 1, 1995. The conversion from a rest area to the use as a motor vehicle emissions testing facility is allowed with access to and from the facility directly from I–95, notwithstanding the provisions of section III of title 23, or the provisions of any project agreement entered into thereunder.

Sec. 130. Collection of tolls to finance certain environmental projects in Florida

Section 130 allows the State of Florida to use the tolls collected along that portion of I–75 referred to as "Alligator Alley" to be used for environmental projects in Florida that are approved by the State and Secretary of the Interior. Use of toll revenues is not governed by the provisions and restrictions of section 129(a) of title 23.

Sec. 131. Hours of service of drivers of ground water well drilling rigs

Section 131 extends to drivers of ground water well drilling rigs the same relief from limitations on cumulative hours of service over

an eight consecutive day period currently provided to drivers of vehicles used exclusively in oilfield operations under section 395.1(d)(1) of title 49, Code of Federal Regulations. The drivers of ground well water drilling rigs remain subject to other Federal and State safety regulations, including other hours of limitations, applicable to their operations.

Drivers of ground water well drilling rigs operate much the same equipment as oil well drilling rig operators; tend to work for small businesses; and operate relatively few miles each year.

The section further provides that the Secretary of Transportation shall monitor the effects of this provision, and, if the Secretary finds that commercial motor vehicle safety has been adversely affected as a result of this provision, the

Secretary shall report such findings to the Congress.

TITLE II—NATIONAL CAPITAL REGION INTERSTATE TRANSPORTATION AUTHORITY

Sec. 201. Short title

Section 201 establishes the short title of the bill as the "National Capital Region Interstate Transportation Authority Act of 1995."

Sec. 202. Findings

Section 202 identifies the capacity problems and deteriorating condition of the Woodrow Wilson Memorial Bridge, concluding that a replacement facility is necessary and that the transfer of the ownership of the bridge from the Federal government to a regional authority created by Virginia, Maryland, and the District of Columbia would facilitate the region's efforts to provide for a new Potomac River crossing.

Sec. 203. Purposes

Section 203 provides that the purposes of the bill are to grant consent to the Commonwealth of Virginia, the State of Maryland, and the District of Columbia to establish the National Capital Region Interstate Transportation Authority; and to authorize the transfer of ownership of the Bridge to the Authority for the purposes of owning, constructing, maintaining, and operating a bridge or tunnel or a bridge and tunnel project across the Potomac River.

Sec. 204. Definitions

Section 204 defines the terms "Authority," "Authority facility," "Board," "Bridge," "Capital Region Jurisdiction," "Interstate system," "National Capital Region," and "Secretary."

Sec. 205. Establishment of authority

In section 205, Congress grants consent to Virginia, Maryland, and the District of Columbia to enter into an interstate agreement or compact to establish the National Capital Interstate Transportation Authority, and provides that, upon the execution of this compact, the Authority shall be considered established. This section also generally defines the duties and powers of the Authority.

Sec. 206. Government of authority

Section 206 establishes a board of 13 members to govern the Authority. It provides the methods for their appointment, lists their required qualifications, and establishes term lengths and limits.

Sec. 207. Ownership of bridge

Section 207 conveys all of the Department of Transportation's and Department of Interior's interests in the Woodrow Wilson Memorial Bridge to the Authority and requires the Authority to accept such interests. This section also addresses interim responsibilities by the Capital Region jurisdictions to maintain and operate the Bridge and the Secretary of Transportation to rehabilitate the Bridge and comply with the National Environmental Policy Act of 1969.

Sec. 208. Capital improvements and construction

Section 208 requires the Authority to address the Washington, D.C. area's need for an enhanced southern Beltway crossing of the Potomac River. Any new crossing must serve the traffic currently served by the existing structure and must be constructed in accordance with the recommendations of the Final Environmental Impact Statement to be prepared for this project. This section also provides that the Authority shall have the sole responsibility for all duties concerning the ownership construction, operation, and maintenance of the new Potomac river crossing.

Sec. 209. Additional powers and responsibilities of authority

Section 209 lists the express powers and responsibilities of the Authority. Subsection 7(a) provides that any bonds issued by the Authority shall not constitute a debt of the United States, Virginia, Maryland, or the District of Columbia, and also provides that these bonds shall be free from Federal income tax. This section does not grant the Authority the power to levy taxes.

Sec. 210. Authorization of appropriations

Section 210 provides $17,550,000 for fiscal year 1996 and $80,050,000 for fiscal year 1997 from the Highway Trust Fund established by section 9503 of the Internal Revenue code of 1986. Funds made available under this section shall be available for obligation in the manner provided for funds apportioned under chapter I of title 23, United States Code, except that; the Federal share of the cost of any project funded under this section shall be 100 percent, and the funds made available under this section shall remain available until expended.

This section further provides that the Secretary shall submit a report to Congress by May 31, 1997, identifying the Federal share of the cost of the activities to be carried out under section 208.

Sec. 211. Availability of prior authorizations

Section 212 provides that funds made available for the rehabilitation of-the bridge under sections 1069(i) and 1103(b) of ISTEA shall continue to be available after conveyance of the Bridge to the Authority.

HEARINGS

The Subcommittee on Transportation and Infrastructure held four hearings on S. 440, all in Washington, DC.

The first hearing was held on February 23, 1995 to examine the President's proposed budget for fiscal year 1996 for the Department of Transportation. Testimony was given by Mortimer L. Downey, Deputy Secretary of Transportation; Rodney E. Slater, Administrator, Federal Highway Administration; Ricardo Martinez, Administrator, National Highway Traffic Safety Administration; Gordon J. Linton, Administrator, Federal Transit Administration; Harry W. Blunt, Jr., Concord Coach Lines, Inc., Concord, NH; Hank Dittmar, Surface Transportation Policy Project, Washington, DC; and Robert E. Martinez, Secretary, Virginia Department of Transportation, and representing the American Association of Highway and Transportation Officials.

The second hearing was held on March 23, 1995 to consider the effects of transportation conformity requirements of the Clean Air Act of 1990 and the air quality programs of the Intermodal Surface Transportation Efficiency Act of 1991. Testimony was given by Governor George Allen of Virginia; Jane F. Garvey, Deputy Administrator, Federal Highway Administration, Department of Transportation; Mary D. Nichols, Assistant Administrator for Air and Radiation, Environmental Protection Agency; Kirk Brown, Illinois Secretary of Transportation, Springfield, IL; William J. Roberts, Environmental Defense Fund; and Brian R. Holmes, Connecticut Road Builders Association, Wethersfield, CT.

The third hearing was held on March 30, 1995 to consider transportation and safety matters. Testimony was given by Senators Snowe, Lautenberg, Campbell, and Nickles; Rhode Island State Senator William Enos, Providence, RI; New Hampshire Representative Sherman A. Packard, Londonderry, NH; Illinois State Senator John Cullerton, Chicago, IL; Mark L. Rosenberg, Director, Centers for Disease Control, Atlanta, GA; Gary B. Sauer, chairman, National Asphalt Pavement Association, Lanham, MD; and Jed S. Billings, president, FNF Construction, Inc., Tempe, AZ.

The fourth hearing was held on April 6, 1995, to consider infrastructure financing issues, as well as the status of the Woodrow Wilson Bridge, on I–95 between Virginia and Maryland, receiving testimony from Jane Garvey, Deputy Administrator, Federal Highway Administration; Jack Herrity, chairman, Interstate Study Commission, Fairfax, VA; Ann Stern, chairman, Financial Guaranty Insurance Corporation, New York, NY; Ralph Stanley, senior vice president, United Infrastructure, Chicago, IL; and Daniel V. Flanagan, chairman, Commission to promote Investment in America's Infrastructure, Arlington, VA.

ROLLCALL VOTES

Section 7(b) of rule XXVI of the Standing Rules of the Senate and the rules of the Committee require that any rollcall votes taken during the consideration of a bill be noted in the report.

The Subcommittee on Transportation and Infrastructure met on May 3, 1995 to consider S. 440. Senator Faircloth moved the adoption of an amendment to amend title 23, U.S. Code, relative to

highway speed limits. The amendment was agreed to by a vote of 6 to 3. In support were Senators Baucus, Faircloth, Graham, Kempthorne, Reid, and Smith. In opposition were Senators Bond, Moynihan, and Warner. A motion to report the bill as amended to the full Committee was agreed to on a rollcall vote by 9 ayes to 0 nays.

The full Committee met on May 10, 1995 to consider S. 440. Senator Smith moved the approval of an amendment by Senator Warner with respect to certain prevailing wage provisions of current law. The amendment was agreed to by a vote of 8 ayes to 7 nays. Voting in support were Senators Faircloth, Inhofe, Kempthorne, McConnell, Smith, Thomas, Warner, and Chafee. In opposition were Senators Baucus, Boxer, Graham, Lautenberg, Lieberman, Moynihan, and Reid. A motion to report S. 440, as amended, to the Senate was agreed to by a vote of 15 ayes to 1 nay. In support were Senators Baucus, Bond, Boxer, Faircloth, Graham, Inhofe, Kempthorne, Lieberman, McConnell, Moynihan, Reid, Smith, Thomas, Warner, and Chafee. In opposition was Senator Lautenberg.

EVALUATION OF REGULATORY IMPACT

Section 11(b) of rule XXVI of the Standing Rules of the Senate requires publication in the report the committee's estimate of the regulatory impact made by the bill as reported. That estimate follows:

The bill reduces mandates on States and increases flexibility for States to allocate funds to meet their own needs.

The national maximum speed limit is repealed, the crumb rubber mandate is repealed and the transportation enhancement process is streamlined. The management systems requirement in ISTEA is suspended and no State is required to convert traffic control signs to the metric system. The transportation conformity requirements are amended to apply only to attainment areas. The drivers of ground water well drilling rigs are exempted from certain portions of the commercial motor vehicle hours of service requirement. The provisions of the Davis-Bacon Act no longer apply to any project carried out under title 23.

Greater flexibility in the bill for States allows for larger transfers from the Highway Bridge and Rehabilitation Program to other accounts. Federal-aid eligibility is extended to public highways connecting the NHS to intermodal facilities. The toll prohibition on the Interstate System is repealed, a provision provides for "soft match" which allows private funds, materials and services to be donated and applied to the State matching share. States are allowed to use advance construction funds for projects beyond the ISTEA authorization period, and bond costs are eligible for reimbursement as a cost of construction. On non-Interstate NHS roads, States are given the flexibility to use design standards that address environmental, scenic, historic, community and intermodal concerns.

The bill will not affect the personal privacy of individuals.

COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Act requires that a statement of the cost of a reported bill, prepared by the Congressional Budget Office, be included in the report. That statement follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 19, 1995.

Hon. JOHN H. CHAFEE,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 440, the National Highway System Designation Act of 1995.

Enactment of S. 440 would affect direct spending and receipts. Therefore, pay-as-you-go procedures would apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL, *Director.*

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 440.
2. Bill title: The National Highway System Designation Act of 1995.
3. Bill status: As ordered reported by the Senate Committee on Environment and Public Works on May 10, 1995.
4. Bill purpose:

TITLE I—HIGHWAY PROVISIONS

Title I of S. 440 would designate the National Highway System and establish procedures for modifying the system. Other provisions of the title would grant states greater flexibility by:

allowing some federal funds to be used for Intelligent Vehicle Highway System operational expenses indefinitely rather than for the two years stipulated in current law,

excluding the Federal-Aid Highway projects from the prevailing wage requirements of the Davis-Bacon Act,

extending advance construction authority beyond the current authorization of the Federal-Aid Highways program,

making debt instrument costs eligible for federal reimbursement,

advancing transportation enhancement project funds to states,

allowing highway money to be used for railroad track improvements in Rhode Island, and

providing various other measures for more flexible use by states of their federal highway grants.

S. 440 would provide funding for new projects by:

earmarking $500,000 of existing contract authority for crumb rubber research and $10 million for a crumb rubber program in each of fiscal years 1996 and 1997,

earmarking $107 million of contract authority for demonstration projects in Florida and California, and

earmarking $15 million of Federal-Aid Highway contract authority for the National Recreational Trails program in each of fiscal years 1996 and 1997.

In addition, S. 440 would freeze each state's share of congestion mitigation and air quality funds at 1995 levels and authorize the appropriation of $70 million for the construction of an intermodal transportation facility and the rehabilitation of Pennsylvania Station in New York City.

Finally, Title I would improve the budget picture for state and local governments by eliminating the requirement that a specified percentage of paving material contain crumb rubber and by eliminating restrictions against tolls on highways funded by the Federal-Aid Highways program.

TITLE II—NATIONAL CAPITAL REGION INTERSTATE TRANSPORTATION AUTHORITY

Title II would:

grant the federal government's consent for the creation of the National Capital Region Interstate Transportation Authority, which would replace the Woodrow Wilson Bridge in suburban Washington, D.C., with a bridge, tunnel, or combination of the two,

convey the current bridge and surrounding land to the authority,

allow the authority to issue tax-exempt bonds,

instruct the Secretary of Transportation to negotiate the federal share of the project costs,

earmark $18 million in 1996 and $80 million in 1997 from existing Federal-Aid Highway contract authority for rehabilitating the current bridge and initiating design and construction of the new river crossing, and

eliminate the current authorization of appropriations of $15 million for the rehabilitation of the current bridge.

5. Estimated cost to the Federal Government: S. 440 would earmark funds for various projects, change existing authorizations of appropriations, eliminate the Davis-Bacon prevailing wage requirements for highway projects, and allow the National Capital Region Transportation Authority to issue tax-exempt bonds. The following table summarizes the estimated budgetary impact of these provisions.

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000
Mandatory Spending and Revenues					
Estimated revenues	.....	.....	.....	.....	15
Direct spending:					
Federal aid-highway equity accounts budget authority	(1)	(1)	(1)	(1)	(1)

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000
Spending Subject to Appropriations					
Authorization of appropriations:					
Intermodal transportation facility	70	.....	.....	.....	.....
Woodrow Wilson Bridge	−15	.....	.....	.....	.....
Total	55	.....	.....	.....	.....
Federal aid-highway obligations [1]:					
Davis-Bacon	−309	−333	−327	−337	−348
Recreational trails	15	15	.....	.....	.....
Total	−294	−318	−327	−337	−348
Estimated outlays [1]:					
Intermodal transportation facility	5	35	18	7	5
Woodrow Wilson Bridge	−3	−8	−2	−1	−1
Recreational trail	3	10	10	3	1
Davis Bacon	−46	−210	−266	−289	−307
Total	−41	−173	−240	−280	−302

[1] Estimated changes in budget authority and outlays for the equity accounts are not available at this time; CBO will provide these estimates as soon as possible.

The costs of this bill fall within budget function 400.

Effect on Federal revenues

Because the National Capital Region Transportation Authority would issue tax-exempt bonds, income tax receipts would drop. The amount of bonds the authority would issue is very uncertain. The new bridge, tunnel, or bridge/tunnel is expected to cost between $1.6 billion and $2.3 billion. (The cost includes designing and constructing the new river crossing and altering six interchanges in the vicinity of the crossing.) In addition, the Secretary of Transportation would negotiate the federal share of the project cost. Although the amount of bonds issued could vary significantly, and would depend on the results of such negotiations, CBO estimates that the authority would issue $1 billion of bonds at the beginning of fiscal year 2000—the date construction is expected to begin. Funds provided in this act and future federal contributions would likely cover any design and right-of-way costs between now and 2000. Based on this information, the Joint Committee on Taxation estimates that the federal government would lose $15 million of income tax revenues in 2000 and additional amounts in subsequent years.

Impact on equity accounts

The $98 million in earmarks for the Woodrow Wilson Bridge would affect the four Federal-Aid Highway equity accounts—Minimum Allocation, Hold Harmless, Donor State, and 90 Cents on the Dollar. The equity account programs are aimed at ensuring that each state gets a fair share of highway funds. For example, the Minimum Allocation program guarantees that each state's percentage of apportioned funds from a specified subset of Federal-Aid Highway programs will be at least 90 percent of the percent of the funds that a state contributes to the Highway Trust Fund from gas tax revenues. Therefore, if a state contributes 10 percent of the

funds deposited in the Highway Trust Fund, that state is guaranteed at least 9 percent of the appointment from the specified programs. If the state does not receive the guaranteed percentage by regular apportionment, the Minimum Allocation program makes up the difference.

Because the Woodrow Wilson Bridge earmarks would reduce the amount of contract authority apportioned to the states, the base from which Minimum Allocation is calculated and the size of the Minimum Allocation program is reduced. In the above hypothetical example, the state would be guaranteed 9 percent of a reduced base of funds. CBO has yet to receive the new equity account numbers from the Federal Highway Administration that are necessary to determine any change in budget authority that would be scored to S. 440 as direct spending. (Any change in outlays would be scored to the transportation appropriations bill.)

Authorization of appropriations

CBO assumed the full amount authorized for the New York City intermodal transportation facility will be appropriated at the start of fiscal year 1996 and the full amount currently authorized for the Woodrow Wilson Bridge would have been appropriated at the start of fiscal year 1996. The Woodrow Wilson Bridge authorization has existed since 1992; however, the project has yet to receive an appropriation. We based our outlay estimates on outlay rates for similar programs.

Earmarked funds

Earmarking existing contract authority for the crumb rubber program, Florida and California demonstration projects, and Woodrow Wilson Bridge would not create any additional spending authority or outlays. Because the funds earmarked for the National Recreational Trails program would be exempt from the Federal-Aid Highway obligation limitation, however, outlays would increase as a result of this earmarking. CBO estimates that an additional $15 million would be obligated in each of fiscal years 1996 and 1997.

Davis-Bacon

Exempting the Federal-Aid Highway program from the Davis-Bacon prevailing wages could save the federal government $1.1 billion over the next five years if Federal-Aid Highway obligations are reduced to reflect the cost savings. (CBO assumed that highway projects also would be exempted from the Copeland Act reporting requirements.) The projected savings are based on CBO's estimate that the Davis-Bacon Act adds about 1.7 percent to construction costs. Contract authority savings would occur if the authorizing committees reduce the amount of contract authority that will become available for highway projects. Because this bill does not reduce contract authority, however, this estimate does not reflect any contract authority savings. If the federal government does not reduce highway funding, states would be able to do more with their federal highway dollars as construction costs are reduced.

Impact on Federal-Aid Highway outlay ratefy

The various provisions in Title I that grant states more flexibility in the use of their federal highway grants could result in a faster rate of spending for the Federal-Aid Highways program. Over at least the next few years, however, CBO does not expect the outlay rate to increase significantly.

Obligations exempt from an obligation limitation

If S. 440 is enacted before the transportation appropriations bill, all Federal-Aid Highway outlays resulting from 1996 obligation are scored to the appropriations bill.

If the appropriations bill is enacted first, then S. 440 would be scored with the change in outlays resulting from additional 1996 obligations for Recreational Trails and Minimum Allocations.

6. Comparison with spending under current law: The New York City intermodal transportation facility, currently under design for development as part of the Pennsylvania Station facility, received a $40 million appropriation in 1995. However, Public Law 104–6 rescinded these funds and appropriated $22 million for safety improvements to Pennsylvania Station. The other provisions of S. 440 would provide new funds for projects that are not funded under current law.

7. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that enactment of S. 440 would decrease tax revenues and change the level of contract authority for the Federal-Aid Highway equity accounts. Therefore, pay-as-you-go procedures would apply to the bill. CBO estimates that the revenue loss would occur beginning in the year 2000 and thus would not appear on the pay-as-you-go scorecard.

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998
Change in outlays	0	0	0	0
Change in receipts	0	0	0	0

8. Estimated cost to State and local governments: S. 440 would save state and local governments money by eliminating the requirement that paving materials contain crumb rubber, precluding Federal-Aid Highway projects from Davis-Bacon prevailing wage and Copeland reporting requirements, and eliminating restrictions against tolls on Federal-Aid Highways.

The Federal Highway Administration estimates that in total states would have to spend up to $1 billion annually to comply with the crumb rubber requirements. These requirements are a condition of federal assistance. In addition, the Department of Transportation and Related Agencies Appropriations Act, 1995 (Public Law 103–331) prohibits the department from withholding federal transportation funds to enforce the requirement.

Eliminating the Davis-Bacon requirement for Federal-Aid Highway projects, would save states about $200 million over the next five years, assuming a 15 percent local match for federal funds. If appropriations do not decrease to reflect these savings, states will

be able to buy more with their federal highway funds because each project will cost less.

CBO cannot estimate how much additional toll revenues states would collect upon elimination of the restriction against tolls on highways eligible for federal funds.

9. Estimate comparison: None.

10. Previous CBO estimate: None.

11. Estimate prepared by: John Patterson (226–2860), Christi Hawley (226–2820), and Pearl Richardson (226–2691).

12. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

ADDITIONAL VIEWS OF THE HONORABLE FRANK R. LAUTENBERG

I support passage of legislation to designate the National Highway System (NHS) as directed by the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991. I was, in fact, an original cosponsor of legislation in both the 103rd and 104th Congresses to accomplish this task.

The $6.5 billion this bill authorizes is critically needed. Consider just a few grim facts:

Almost one-fourth of our highways are in poor or mediocre condition, while another 36 percent are rated only fair;

One in five of the Nation's bridges is structurally deficient, meaning that weight restrictions have been set to limit truck traffic;

On urban interstate highways, the percentage of peak-hour travel approaching gridlock conditions increased from 55 percent in 1983 to 70 percent in 1991, generating costs to the economy of $39 billion.

Experts indicate that an additional annual investment of $32 billion is needed to bring our highway and bridge infrastructure up to standard. Failure to make those investments increases costs in both the short and long term. For example, failure to invest one dollar today in needed highway resurfacing can mean up to four dollars in highway reconstruction costs two years from now.

The ability of our country to sustain higher productivity is the key to economic growth and a higher standard of living. Higher productivity is, in part, a function of public and private investment. Recognizing that reality, over 400 of our nation's leading economists recently urged our government to increase public investment. They urged us to remember that public investment in our people and in our infrastructure is essential to economic growth.

The NHS was designed to be a part of a comprehensive program of public investment. However, as much as I support moving this legislation forward, I voted against the NHS bill approved by the Senate Environment and Public Works Committee because of my opposition to provisions that would eliminate federal speed limit requirements on our nation's interstates.

SPEED LIMITS REQUIREMENTS

During Subcommittee consideration of the NHS bill, an amendment was adopted that gutted the federal government's ability to protect innocent men, women and children from death and injury as a result of speeding. Current federal speed limit law prohibits the states from posting speed limits in excess of 55mph or 65mph, depending on the road and the road's location. In addition, current law requires that states meet a certain level of compliance with

posted speed limits or shift part of their construction funding to safety programs.

These laws were put in place to save lives. One-third of all traffic accidents are caused by excessive speed. The National Highway Traffic Safety Administration (NHTSA) estimates that total repeal of federal speed limit requirements will increase the number of Americans killed on our nation's highways by approximately 4,750 each year. In addition, there will be financial consequences associated with a repeal: death and injuries as a result of ending federal speed limit restrictions would cost tax payers $17 billion annually in lost productivity, taxes and increased health care costs. This loss would be on top of the $24 billion we already lose as a result of motor vehicle accidents which are caused by excessive speed.

Speed limits laws also enjoy the strong support of the American people. A recent poll conducted by Advocates of Highway and Auto Safety asked if the federal government should have a strong role in setting auto safety standards. Over 4 out of 5 people surveyed, or 82.6%, responded yes. That same poll asked respondents if they favor or oppose allowing states to raise speed limits above 65mph on interstates and freeways. Less than one out of every three people surveyed, 31%, favored raising current speed limit standards.

People don't want higher speed limits because they know it increases their chances of dying as the result of a speed related motor vehicle accident. Congress should not repeal federal speed limit requirements.

CONCLUSION

Recognizing the importance of the NHS bill to our country's infrastructure, I was reluctant to vote against reporting it. But, I am convinced that the Committee acted unwisely when it approved repeal of our speed limit laws.

I hope that when this bill is considered by the full Senate, we can address the concerns of Senators without increasing the carnage on our highways.

FRANK R. LAUTENBERG.

ADDITIONAL VIEWS OF SENATORS BAUCUS, MOYNIHAN, LAUTENBERG, REID, GRAHAM, LIEBERMAN, AND BOXER

Introduction

In general, S. 440 is a good bill that builds on the work that the Committee did on NHS legislation last year. The bill will provide important benefits to the nation by designating the National Highway System and improving the surface transportation law.

We appreciate the bipartisan approach that Chairman Chafee and Subcommittee Chairman Warner have taken, and we congratulate them for moving ahead expeditiously.

We are, however, deeply concerned about one provision of the bill. Section 107 repeals the requirement that federal highway contractors pay their workers the prevailing local wage. In our opinion, this provision is dangerous, unnecessary, and unwise.

Background

In the latter part of the 19th Century, progressive groups proposed a series of reforms intended to improve the conditions of American workers. As one study recently put it, "the heart of these reforms was a notion that the American labor market should be based upon highly skilled workers earning decent wages with time for family and a childhood of learning for the young."

Accordingly, the proposed reforms included child labor laws, an eight-hour work day, and compulsory education for all children. They also included payment of prevailing local wages for the construction of public buildings and other public works. In 1891, the Kansas legislature passed the first prevailing wage law, which provided that prevailing local wages must be paid on all state construction projects. Over the next few decades, Arizona, Idaho, Massachusetts, Nebraska, New York, New Jersey, and Oklahoma passed similar laws.

In 1927, Congressman Robert Bacon (R.-NY) introduced the first federal prevailing wage bill. The bill did not pass, but Congressman Bacon and others continued to introduce bills requiring that federal contractors pay the prevailing local wage, and several hearings were held. In the Senate, the corresponding effort eventually was led by Senator James J. Davis (R.-Pa), who had served as Labor Secretary under President's Harding, Coolidge, and Hoover.

The bill was finally enacted in 1931, when the depression was at its deepest point. President Hoover had recommended an expanded public works program to create jobs and help revive local economies. As part of this program, the government attempted to require federal contractors to pay the prevailing local wage, as a way to prevent a few contractors from importing cheap labor to "lowball" the bid and thereby disrupt the local labor market. After the Comptroller General concluded that the government did not have the legal authority to impose this requirement, President Hoover rec-

ommended swift enactment of the Davis-Bacon bill. The Secretary of Labor testified that the bill was necessary because some building contracts "were being awarded to companies that want to bring in cheap labor and, in effect, we were having our wage levels reduced in many . . . communities." The Senate report explained that the bill would "generally benefit the country at large by requiring that those who have been awarded public-building contracts pay their employees wages comparable to the prevailing wage scales where they are employed." The bill was passed by bipartisan majorities.

When the federal highway program was initiated, there was concern that Davis-Bacon would not apply directly to most highway construction, because the contracts were formally awarded by states rather than the federal government. Therefore, Congress enacted a complementary provision, the current version of which is now codified as section 113 of title 23, requiring that contractors performing work on federally-assisted highway projects pay their workers the prevailing local wage.

Under section 113 and Davis-Bacon, the Secretary of Labor determines the prevailing local wage for various highway construction jobs, and contractors bidding for contracts in the local area must agree to pay no less than that wage. Since 1956, this system has applied to the roughly $335 billion worth of construction undertaken pursuant to the federal highway program.

Section 107 of the bill would delete the current text of section 113 of title 23 and instead provide that the Davis-Bacon Act "shall not apply with respect to any project carried out or assisted under any chapter of [title 23]." By doing so, section 107 would effectively repeal both the indirect application of Davis-Bacon (pursuant to current section 113) in cases in which highway construction contracts are awarded by states, and the direct application of the Davis-Bacon in cases in which highway construction contracts are awarded directly by the federal government (for example, under the Federal Lands Highway Program). When this provision was offered as an amendment in full committee, we opposed it.

THE AMENDMENT IS DANGEROUS AND UNNECESSARY

We support reasonable reforms of the general Davis-Bacon prevailing local wage requirement.

However, as a threshold matter, we believe that S. 440 is not the appropriate forum to debate the wisdom of reforming or repealing the Davis-Bacon Act. In fact, we believe that including section 107 in the bill is both dangerous and unnecessary.

It is dangerous because section 107 jeopardizes the passage of NHS legislation. Proposals to repeal the prevailing local wage requirement inevitably provoke sharp controversy. It is, therefore, not surprising that six other Senators have indicated that they will engage in extended floor debate in order to prevent the enactment of section 107. If that happens, S. 440 may fail to pass by September 30, 1995, and, as a result, states risk losing $6.5 billion in fiscal 1996 highway funds. That would be disastrous to our states, to our local communities, and to the small businesses that depend on highway construction. Because of this, the American Road and Transportation Builders Association, which supports reform of the Davis-Bacon Act, urged the Committee not to include section 107

in the bill, expressing concern that its inclusion would "greatly increase the likelihood that the NHS bill will not become law."

In any event, section 107 is unnecessary. The Labor and Human Resources Committee has reported a bill, S. 141, that would completely repeal Davis-Bacon. The minority members of that Committee have proposed their own package of reforms. Consequently, during this Congress, the Senate has an opportunity to debate the wisdom of the prevailing local wage requirement. If the debate results in reforms, the reforms would apply fully to the highway program; likewise, if the debate results in repeal of the prevailing local wage requirement, the repeal would apply fully to the highway program.

In light of this, we are concerned that section 107 makes a purely symbolic statement that jeopardizes the passage of a truly important bill.

UNCERTAIN COST REDUCTIONS

Beyond that, we believe that repeal of the prevailing local wage requirement is unwise.

A major argument that has been made against the general prevailing local wage requirement is that it increases federal construction costs and consequently either makes less money available for other projects or increases the budget deficit. In the case of the highway program, the Committee report says that the prevailing local wage requirement "inflates the costs of highway construction" and that repeal would allow states to "use this cost savings to address more compelling needs, such as the replacement of deteriorating roads and bridges."

The evidence to support this argument is, at best, mixed. Over the years, the Environment and Public Works Committee has frequently considered the economic effect of prevailing local wage requirements; for example, last Congress, the Committee debated the economic effect of prevailing local wage requirements under the Clean Water Act and the Safe Drinking Water Act. In each case, the argument that the prevailing wage requirement increases federal construction costs was met by the counterargument that it does not, because, over the long run, a prevailing wage requirement results in fewer delays, fewer cost overruns, more productive workers, and sturdier construction.

Many economists support this latter view. For example, former Labor Secretary John Dunlop concluded that "the net effect of Davis-Bacon was neutral with respect to costs." And a recent study by the University of Utah evaluates the experience of Utah and other states that recently repealed their "little Davis-Bacon" laws. It concludes that the states actually lost money, for two main reasons. First, lower initial bids were offset by higher cost overruns. Second, lower wage rates for state construction resulted in lower wages in the overall construction industry, which significantly reduced tax revenue. Extrapolating, the study estimates that repeal of the overall Davis-Bacon prevailing local wage requirement would cost the federal government about $500 million a year.

Moreover, empirical evidence supports the view that the prevailing local wage requirement does not increase highway construction costs. FHWA data for the years 1980 to 1993 allows us to compare

the overall cost of highway construction in high-wage states and low-wage states (for the 26 states that spent the most on highway construction). This data shows that it was cheaper to construct highways in high-wage states than it was in low-wage states. For example, the average construction wage on federally assisted highway projects in Wisconsin ($15.55/hr) was more than twice that on projects in Mississippi ($6.69/hr.); however, the total construction cost per mile was lower in Wisconsin ($394,405) than Mississippi ($641,238) and the labor cost per mile was lower in Wisconsin ($78,083) than Mississippi ($95,329). On average, both the total cost per mile and the labor cost per mile were lower for the 13 high wage states than for the 13 low-wage states.

We are aware that the Congressional Budget Office estimates that the full repeal of Davis-Bacon would reduce federal construction spending by $3.2 billion over five years. However, there are several flaws in this estimate. Most significantly, it appears to be based on pre-1983 data, which may not have been sufficiently updated to reflect changes in the construction industry, including a reduction in real wages, a reduction in the rate of unionization, increased productivity, and significant reforms in the implementation of the prevailing local wage requirement.

In any event, a recent CBO report itself is replete with limitations that should make us cautious about relying on the estimate. For instance, the report warns that "[a]ny estimate of the cost implications of the DBA [Davis-Bacon Act] is uncertain. Very little empirical work has been published on the subject since CBO's 1983 report, and even than there was little consensus as to the precise cost impacts." It also warns that "relevant data are sparse, the broad trends are ambiguous, and the applicability of the available information to estimating the impact of DBA is uncertain." In short, the report is not exactly overflowing with confidence, and we are reluctant to give it more weight than its authors intended.

PROTECTING LOCAL WORKERS, COMMUNITIES AND BUSINESSES

Despite the piles of studies on either side, the overall long-term economic effect of prevailing local wage requirements is not certain. But one thing is. If we repeal the requirement that the federal government pay prevailing local wages on highway contracts, we will significantly reduce the incomes of many construction workers and their families.

Currently, the average construction worker earns about $28,000 a year; in recent years, this amount has fallen, not risen. Even so, the construction industry is one of the few remaining industries in which a person who doesn't have a college degree can buckle down, work hard, and make a decent wage that can help support a family.

The Labor Department predicts that the repeal of prevailing local wage requirements will result in "lower wages, reduced earnings, and an erosion of the standard of living for many construction workers." At a time when there is increasing concern about the decline of good-paying jobs for skilled workers, we believe that this is the wrong course to take.

In addition, repeal of the prevailing local wage requirement will reduce the amount of training that is given to new construction in-

dustry workers, by eliminating the primary incentive for many contractors to participate in the formal apprenticeship and training programs necessary to insure that unskilled and semi-skilled workers such as helpers eventually become qualified journeymen or laborers.[1] Without the Davis-Bacon Act, highway contractors will be allowed to hire helpers at lower wages but without providing them with training or enrolling them in bona-fide apprenticeship programs. If fewer contractors participate in formal apprenticeship programs, it will cause their eventual erosion and a further diminution in the availability of skilled construction workers.

We also are concerned about the impact the repeal will have on local communities. The Davis-Bacon Act is frequently described as establishing a "union wage" or some artificial government wage. That's not the case. It doesn't set some artificial government wage. It requires federal contractors to pay their workers the prevailing local wage, which is based on the wages paid to workers employed at similar trades in the local community (recently, more than 70 percent of prevailing local wages have been set at rates lower than the local union wages).

Without the prevailing local wage requirement, a contractor can chase after lucrative federal contracts by using cheap labor to undercut local contractors. That, in turn, drives down overall wages and makes the construction market less stable. Consequently, requiring the federal government to pay the prevailing local wage doesn't protect just local workers, but also local companies and local communities. For this reason, a wide range of companies and business groups opposes the repeal of the Davis-Bacon Act, and the National Electrical Contractors Association has written that "[p]revailing wage laws have an important place in levelling the playing field to prevent the undermining of local economies and employment practices."

THE RACISM RED HERRING

Some critics of Davis-Bacon have argued that its enactment was motivated primarily by racism and that it currently discriminates against minority workers.

We believe that this argument is a red herring, for three reasons.

First, Labor Department data indicates that minority employment is as high or higher at federal construction projects, which are covered by the Davis-Bacon Act, than it is at other projects, which are not. Overall, the rate of minority employment at federal construction projects is virtually the same as the rate at other construction projects. What's more, for job classifications covered by the Davis-Bacon Act (craftworkers, operators, and laborers) the rate of minority employment at federal construction projects is higher than it is at other projects. Specifically, data collected by the Labor Department in 1991 showed that the rates of minority employment in various job classifications were the following:

[1] Under current law, a worker can be paid less than the prevailing local wage rate on a project covered by the Davis-Bacon Act if he or she is enrolled in a legitimate training program.

[In percent]

	Federal projects	Other projects
Craftworkers	17.61	17.41
Operators	26.22	24.40
Laborers	41.18	39.13

Second, one of the nation's leading civil rights groups, the NAACP, recently considered the argument that prevailing local wage requirements discriminate against black workers and firmly rejected the argument. Instead, the NAACP approved a resolution saying that "the NAACP supports the Davis-Bacon Act."

Third, those who rely on the legislative history to support the argument that the Davis-Bacon Act was enacted primarily for racist reasons take a selective approach to that legislative history. They frequently rely on scattered remarks, taken out of context from an extensive legislative record. The Congressional Research Service recently reviewed the legislative history in light of charges that the Act was enacted primarily for racist reasons, and reached the following conclusion:

> Based upon the evidence presented by the advocates of "the racial thesis," there seems little justification for an assertion of racial motivation on the part of the Congress. Even were some Members motivated by racism (which has not been proved), it is painting with a very broad brush to infer, from two brief quotations and a few words selected out of context, that any significant number of Members of Congress, either then or now, were inspired by a racial intent.

Rather, the prevailing local wage requirement evolved over a long period of time as part of a broad set of progressive reforms, was initially enacted by several states, and finally was enacted into federal law as part of President Hoover's response to the depression. The evolution of the prevailing wage requirement shows that, as the Assistant Secretary of Labor recently testified.

> the primary purpose of the law is to assure, by requiring the payment of locally prevailing wages, that Federal spending practices do not undercut the wages of hard-working people who aspire to the middle-class and do not put local contractors—and their employees—in an unfair position.

Conclusion

This purpose, we believe, is just as important today as it was in 1931. Accordingly, we respectfully oppose section 107 and urge that it be deleted from the bill.

MAX BAUCUS.
DANIEL MOYNIHAN.
FRANK R. LAUTENBERG.
HARRY REID.
BOB GRAHAM.
JOSEPH I. LIEBERMAN.
BARBARA BOXER.

CHANGES IN EXISTING LAW

In compliance with section 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill as reported are shown as follows: Existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman:

TITLE 23, UNITED STATES CODE

CHAPTER 1.—FEDERAL-AID HIGHWAYS

Section

* * * * * * *

[122. Payment to States bond retirement]
122. Payments to States for bond and other debt instrument financing

* * * * * * *

[154. National maximum speed limit]
154. Repealed.

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CHAPTER 3.—GENERAL PROVISIONS

Section
[301. Freedom from tolls]
301. Repealed

* * * * * * *

§ 101. Definitions and declaration of policy

(a) As used in this title, unless the context requires otherwise—

* * * * * * *

The term "construction" means the supervising, inspecting, actual building, [and all expenses incidental to the construction or reconstruction of a] highway, including *bond costs and other costs relating to the issuance of bonds or other debt instrument financing in accordance with section 122,* locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration in the Department of Commerce), resurfacing, restoration, and rehabilitation, acquisition of rights-of-ways, relocation assistance, elimination of hazards of railway grade crossings, elimination of roadside obstacles, acquisition of replacement housing sites, acquisition and rehabilitation, relocation, and construction of replacement housing, and improvements which directly facilitate and control traffic flow, such as grade separation of intersections, widening of lanes, channelization of traffic, traffic control systems, and passenger loading and unloading areas. The term also includes capital improvements which directly facilitate an effective vehicle weight enforcement program, such as scales

(fixed and portable), scale pits, scale installation, and scale houses and also includes costs incurred by the State in performing Federal-aid project related audits which directly benefit the Federal-aid highway program.

* * * * * * *

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

The term "operating costs for traffic monitoring, management, and control" includes labor costs, administrative costs, costs of utilities and rent, and other costs associated with the continuous operation of traffic control activities, such as integrated traffic control systems, incident management programs, and traffic control centers.

* * * * * * *

§ 103. Federal-aid systems

(a) * * *

* * * * * * *

(c) NATIONAL HIGHWAY SYSTEM DESIGNATION.—

(1) DESIGNATION.—The most recent National Highway System (as of the date of enactment of this Act) as submitted by the Secretary of Transportation pursuant to this section is designated as the National Highway System.

(2) MODIFICATIONS.—

(A) IN GENERAL.—At the request of a State, the Secretary may—

(i) add a new route segment to the National Highway System, including a new intermodal connection; or

(ii) delete a route segment in existence on the date of the request and any connection to the route segment;

if the total mileage of the National Highway System (including any route segment or connection proposed to be added under this subparagraph) does not exceed 165,000 miles (265,542 kilometers).

(B) PROCEDURES FOR CHANGES REQUESTED BY STATES.—Each State that makes a request for a change in the National Highway System pursuant to subparagraph (A) shall establish that each change in a route segment or connection referred to in the subparagraph has been identified by the State, in cooperation with local officials, pursuant to applicable transportation planning activities for metropolitan areas carried out under section 134 and statewide planning processes carried out under section 135.

(3) APPROVAL BY THE SECRETARY.—The Secretary may approve a request made by a State for a change in the National Highway System pursuant to paragraph (2) if the Secretary determines that the change—

(A) meets the criteria established for the National Highway System under this title; and

(B) enhances the national transportation characteristics of the National Highway System.

* * * * * * *

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

(1) * * *

* * * * * * *

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

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

* * * * * * *

(14) Construction, reconstruction, resurfacing, restoration, and rehabilitation of, and operational improvements for, public highways connecting the National Highway System to—

(A) ports, airports, and rail, truck, and other intermodal freight transportation facilities; and

(B) public transportation facilities.

(15) Construction of, and operational improvements for, the Alameda Transportation Corridor along Alameda Street from the entrance to the ports of Los Angeles and Long Beach to Interstate 10, Los Angeles, California. The Federal share of the cost of the construction and improvements shall be determined in accordance with section 120(b). .

* * * * * * *

§ 104. Apportionment

(a) * * *

* * * * * * *

(b) On October 1 of each fiscal year except as provided in paragraph (5)(A) of this subsection, the Secretary, after making the deduction authorized by subsection (a) of this section and the set asides authorized by [subsection (f)] *subsections (f) and (i)* of this section and section 307 of this title, shall apportion the remainder of the sums authorized to be appropriated for expenditure on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, and the Interstate System for that fiscal year, among the several States in the following manner:

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

(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality im-

provement program, in the ratio which the weighted nonattainment area population of each State bears to the total weighted nonattainment area population of all States. The weighted nonattainment area population shall be calculated by multiplying the population of each area within any State that [is a nonattainment area (as defined in the Clean Air Act [42 USCS §§ 7401 et seq.]) for ozone] *was a nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2))) for ozone during any part of fiscal year 1995* by a factor of—

(A) 1.0 if the area is classified as a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act [42 USCS §§ 7511 et seq.];

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

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

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

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

If the area [is] *was* classified under subpart 3 of D of title I of such Act [42 USCS §§ 7512 et seq.] as a nonattainment area for carbon monoxide *during any part of fiscal year 1995*, for purposes of calculating the weighted nonattainment area population, the weighted nonattainment area population of the area, as determined under the preceding provisions of this paragraph, shall be further multiplied by a factor of 1.2. Notwithstanding any provision of this paragraph, in the case of States with a total 1990 census population of 15,000,000 or greater, the amount apportioned under this paragraph in a fiscal year to all of such States in the aggregate, shall be distributed among such States based on their relative populations; except that none of such States shall be distributed more than 42 percent of the aggregate amount so apportioned to all such States.

* * * * * * *

(g) Not more than [40] *60* per centum of the amount apportioned in any fiscal year to each State in accordance with sections 130, 144, and 152 of this title, or section 203(d) of the Highway Safety act of 1973 [23 USCS § 130 note], may be transferred from the apportionment under one section to the apportionment under any other of such sections if such a transfer is requested by the State highway department and is approved by the Secretary as being in the public interest. The Secretary may approve the transfer of 100 per centum of the apportionment under one such section to the apportionment under any other of such sections if such transfer is requested by the State Highway department, and is approved by the Secretary as being in the public interest, if he has received satisfactory assurances from such State highway department that the purposes of the program from which such funds are to be transferred have been met. A State may transfer not to exceed 40 percent of the State's apportionment under section 144 in any fiscal year to the apportionment of such State under subsection (b)(1) or subsection (b)(3) of this section. Any transfer to subsection (b)(3) shall

not be subject to section 133(d). Nothing in this subsection authorizes the transfer of any amount apportioned from the Highway Trust Fund to any apportionment the funds for which were not from the Highway Trust Fund, and nothing in this subsection authorizes the transfer of any amount apportioned from funds not from the Highway Trust Fund to any apportionment the funds for which were from the Highway Trust Fund.

(h) NATIONAL RECREATIONAL TRAILS FUNDING.—The Secretary shall expend, from administrative funds deducted under subsection (a), to carry out section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261) $15,000,000 for each of fiscal years 1996 and 1997.

(i) WOODROW WILSON MEMORIAL BRIDGE.—Before making an apportionment of funds under subsection (b), the Secretary shall set aside $17,550,000 for fiscal year 1996 and $80,050,000 for fiscal year 1997 for the rehabilitation of the Woodrow Wilson Memorial Bridge and for the planning, preliminary design, engineering, and acquisition of a right-of-way for, and construction of, a new crossing of the Potomac River.

[(h)**]** *(j)* The Secretary shall submit to Congress not later than the 20th day of each calendar month which begins after the date of enactment of this subsection [Nov. 6, 1978] a report on (1) the amount of obligation, by State, for Federal-aid highways and the highway safety construction programs during the preceding calendar month, (2) the cumulative amount of obligation, by State, for that fiscal year, (3) the balance as of the last day of such preceding month of the unobligated apportionment of each State by fiscal year, and (4) the balance of unobligated sums available for expenditure at the discretion of the Secretary for such highways and programs for that fiscal year.

* * * * * * *

§ 109. Standards

[(a) The Secretary shall not approve plans and specifications for proposed projects on any highway projects under this chapter [23 USCS §§ 101 et seq.] if they fail to provide for a facility (1) that will adequately meet the existing and probable future traffic needs and conditions in a manner conducive to safety, durability, and economy of maintenance; (2) that will be designed and constructed in accordance with standards best suited to accomplish the foregoing objectives and to conform to the particular needs of each locality.**]**

(a) IN GENERAL.—The Secretary shall ensure that the plans and specifications for each proposed highway project under this chapter provide for a facility and will—

(1) adequately serve the existing and planned future traffic of the highway in a manner that is conducive to safety, durability, and economy of maintenance; and

(2) be designed and constructed in accordance with criteria best suited to accomplish the objectives described in paragraph (1) and to conform to the particular needs of each locality.;

* * * * * * *

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

(c) DESIGN CRITERIA FOR THE NATIONAL HIGHWAY SYSTEM.—

(1) IN GENERAL.—A design for new construction, reconstruction, resurfacing (except for maintenance resurfacing), restoration, or rehabilitation of a highway on the National Highway System (other than a highway also on the Interstate System) shall take into account, in addition to the criteria described in subsection (a)—

(A) the constructed and natural environment of the area;

(B) the environmental, scenic, aesthetic, historic, community, and preservation impacts of the activity; and

(C) as appropriate, access for other modes of transportation.

(2) DEVELOPMENT OF CRITERIA.—The Secretary, in cooperation with State highway agencies, shall develop criteria to implement paragraph (1). In developing the criteria, the Secretary shall consider the results of the committee process of the American Association of State Highway and Transportation Officials as adopted and published in 'A Policy on Geometric Design of Highways and Street', after adequate opportunity for input by interested parties.

* * * * * * *

(j) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall develop and promulgate guidelines to assure that highways constructed pursuant to this title are consistent with any approved [plan for the implementation of any ambient air quality standard for any air quality control region designated pursuant to the Clean Air Act, as amended.] *plan for—*

(1) the implementation of a national ambient air quality standard for which an area is designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

(2) the maintenance of a national ambient air quality standard in an area that was designated as a nonattainment area but that was later redesignated by the Administrator as an attainment area for the standard and that is required to develop a maintenance plan under section 175A of the Clean Air Act (42 U.S.C. 7505a).

* * * * * * *

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

or scenic value and such project is designed with mitigation measures to allow preservation of such value and ensure safe use of the facility.]

(q) ENVIRONMENTAL, SCENIC, AND HISTORIC VALUES.—Notwithstanding subsections (b) and (c), the Secretary may approve a project for the National Highway System if the project is designed to—

(1) allow for the preservation of environmental, scenic, or historic values;

(2) ensure safe use of the facility; and

(3) comply with subsection(a).

* * * * * * *

[§ 113. Prevailing rate of wage

(a) The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on the construction work performed on highway projects on the Federal-aid highways authorized under the highway laws providing for the expenditure of Federal funds upon the Federal-aid systems, shall be paid wages at rates not less than those prevailing on the same type of work on similar construction in the immediate locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931, known as the Davis-Bacon Act (40 U.S.C. 276a).

(b) In carrying out the duties of subsection (a) of this section, the Secretary of Labor shall consult with the highway department of the State in which a project on any of the Federal-aid systems is to be performed. After giving due regard to the information thus obtained, he shall make predetermination of the minimum wages to be paid laborers and mechanics in accordance with the provisions of subsection (a) of this section which shall be set out in each project advertisement for bids and in each bid proposal form and shall be made of the contract covering the project.

(c) The provisions of the section shall not be applicable to employment pursuant to apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting equal employment opportunity in connection with Federal-aid highway construction programs.]

§ 113. Prevailing rate of wage

The Act entitled "An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes", approved March 3, 1931 (commonly known as the "Davis-Bacon Act") (40 U.S.C. 276a et seq.), shall not apply with respect to any project carried out or assisted under any chapter of this title.

* * * * * * *

§ 115. Advance construction

(a) * * *

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[(d) LIMITATION ON ADVANCED FUNDING.—The Secretary may not approve an application under this section unless an authorization for section 103(e)(4), 104, 144, or 307 of this title, as the case may be, is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for each State. No applications may be approved which will exceed the State's expected apportionment of such authorizations.]

(d) REQUIREMENT OF INCLUSION IN TRANSPORTATION IMPROVEMENT PROGRAM.—The Secretary may not approve an application under this section unless the project is included in the transportation improvement program of the State developed under section 135(f).

* * * * * * *

§ 116. Maintenance

(a) * * *

* * * * * * *

[(d)](e) [Repealed]

(d) PREVENTIVE MAINTENANCE.—A preventive maintenance activity shall be eligible for Federal assistance under this title if the State demonstrates to the satisfaction of the Secretary that the activity is a cost-effective means of extending the life of a Federal-aid highway.

* * * * * * *

[§ 122. Payment of States for bond retirement

Any State that shall use the proceeds of bonds issued by the State, county, city, or other political subdivision of the State for the construction of one or more projects on the Federal-aid primary or Interstate System, or extensions of any of the Federal-aid highway systems in urban areas, or for substitute highway projects approved under section 103(e)(4) of this title, may claim payment of any portion of the sums apportioned to it for expenditure on such system or on highway projects approved under section 103(e)(4) of this title to aid in the retirement of the principal of such bonds the proceeds of which were used for projects on the Federal-aid primary system or extensions of any of the Federal-aid highway systems in urban areas or for substitute highway projects approved under section 103(e)(4) of this title and the retirement of the principal and interest of such bonds the proceeds of which were used for projects on the Interstate System at their maturities, to the extent that the proceeds of such bonds have been actually expended in the construction of one or more of such projects. Such claim for payment may be made only when all of the provisions of this title have been complied with to the same extent and with the same effect as though payment were to be made to the State under section 121 of this title, instead of this section, and the Federal share payable shall not exceed the pro rata basis of payment authorized in section 120 of this title. This section shall not be construed as a commitment or obligation on the part of the United States to provide for the payment of the principal or interest of any such bonds. The payment of interest on such bonds and incidental costs in con-

nection with the sale of such bonds shall not be included in the estimated cost of completing the Interstate System.]

§ 122. Payments to States for bond and other debt instrument financing

(a) DEFINITION OF ELIGIBLE DEBT FINANCING INSTRUMENT.—In this section, the term 'eligible debt financing instrument' means a bond or other debt financing instrument, including a note, certificate, mortgage, or lease agreement, issued by a State or political subdivision of a State, the proceeds of which are used for an eligible Federal aid project under this title.

(b) FEDERAL REIMBURSEMENT.—Subject to subsections (c) and (d), the Secretary may reimburse a State for expenses and costs incurred by the State or a political subdivision of the State, for—

(1) interest payments under an eligible debt financing instrument;

(2) the retirement of principal of an eligible debt financing instrument;

(3) the cost of the issuance of an eligible debt financing instrument;

(4) the cost of insurance for an eligible debt financing instrument; and

(5) any other cost incidental to the sale of an eligible debt financing instrument (as determined by the Secretary).

(c) CONDITIONS ON PAYMENT.—The Secretary may reimburse a State under subsection (b) with respect to a project funded by an eligible debt financing instrument after the State has complied with this title to the extent and in the manner that would be required if payment were to be made under section 121.

(d) FEDERAL SHARE.—The Federal share of the cost of a project payable under this section shall not exceed the pro-rate basis of payment authorized in section 120.

(e) STATUTORY CONSTRUCTION.—Notwithstanding any other law, the eligibility of an eligible debt financing instrument for reimbursement under subsection (a) shall not—

(1) constitute a commitment, guarantee, or obligation on the part of the United States to provide for payment of principal or interest on the eligible debt financing instrument; or

(2) create any right of a third party against the United States for payment under the eligible debt financing instrument.

* * * * * * *

§ 129. Toll roads, bridges, tunnels, and ferries

(a) BASIC PROGRAM.—

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

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

(B) reconstructing, resurfacing, restoring, and rehabilitating a toll highway, bridge, or tunnel (including a toll

highway, bridge, or tunnel subject to an agreement entered into under this section or section 199(e) as in effect on the day before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991 [Dec. 18, 1991]) or approach thereto;

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

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

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

on the same basis and in the same manner as in the construction of free highways under this chapter [23 USCS §§ 101 et seq.].]

(1) AUTHORIZATION FOR FEDERAL PARTICIPATION.—Subject to the other provisions of this section, the Secretary shall permit Federal participation in Federal-aid projects involving toll highways, bridges, and tunnels on the same basis and in the same manner as in the construction of free highways under this chapter.

* * * * * * *

[(5)LIMITATION ON FEDERAL SHARE.—Except as otherwise provided in this paragraph, the Federal share payable for construction of a highway, bridge, tunnel, or approach thereto or conversion of a highway, bridge, or tunnel to a toll facility under this subsection shall be such percentage as the State determines but not to exceed 50 percent. The Federal share payable for construction of a new bridge, tunnel, or approach thereto or for reconstruction or replacement of a bridge, tunnel, or approach thereto shall be such percentage as the Secretary determines but not to exceed 80 percent. In the case of a toll facility subject to an agreement under section 119 or 129, the Federal share payable on any project for resurfacing, restoring, rehabilitating, or reconstructing such facility shall be 80 percent until the scheduled expiration of such agreement (as in effect on the day before the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991 [Dec. 18, 1991]).]

(5) LIMITATION ON FEDERAL SHARE.—The Federal share payable for an activity described in paragraph (1) shall be a percentage determined by the State, but not to exceed 80 percent.

* * * * * * *

(b) [Notwithstanding the provisions of section 301 of this title, the] *The* Secretary may permit Federal participation under this title in the construction of a project constituting an approach to a ferry, whether toll or free, the route of which has been classified as a public road and has not been designated as a route on the Interstate System. Such ferry may be either publicly or privately owned and operated, but the operating authority and the amount of fares charged for passage shall be under the control of a State

agency or official, and all revenues derived from publicly owned or operated ferries shall be applied to payment of the cost of construction or acquisition thereof, including debt service, and to actual and necessary costs of operation, maintenance, repair, and replacement.

(c) [Notwithstanding section 301 of this title, the] *the* Secretary may permit Federal participation under this title in the construction of ferry boats and ferry terminal facilities, whether toll or free, subject to the following conditions:

* * * * * * *

§ 133. Surface transportation program

(a) ESTABLISHMENT.—* * *

* * * * * * *

(e) ADMINISTRATION.—

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

(2) CERTIFICATION.—The Governor of each State shall certify before the beginning of each quarter of a fiscal year that the State will meet all the requirements of this section and shall notify the Secretary of the amount of obligations expected to be incurred for surface transportation program projects during such quarter. A State may request adjustment to the obligation amounts later in each of such quarters. Acceptance of the notification and certification shall be deemed a contractual obligation of the United States for the payment of the surface transportation program funds expected to be obligated by the State in such quarter for projects not subject to review by the Secretary under this chapter.

[(3) Payments. The] *(3) PAYMENTS.—*

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall make payments to a State of costs incurred by the State for the surface transportation program in accordance with procedures to be established by the Secretary. Payments shall not exceed the Federal share of costs incurred as of the date the State requests payments.

(B) ADVANCE PAYMENT OPTION FOR TRANSPORTATION ENHANCEMENT ACTIVITIES.—

(i) IN GENERAL.—The Secretary may advance funds to the State for transportation enhancement activities funded from the allocation required by subsection (d)(2) for a fiscal year if the Secretary certifies for a fiscal year that the State has authorized and uses a process for the selection of transportation enhancement projects that involves representatives of affected public entities, and private citizens, with expertise related to transportation enhancement activities.

(ii) LIMITATION ON AMOUNTS.—Amounts advanced under this subparagraph shall be limited to such amounts as are necessary to make prompt payments for project costs.

(iii) EFFECT ON OTHER REQUIREMENTS.—This subparagraph shall not exempt a State from other requirements of this title relating to the surface transportation program.

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

(5) TRANSPORTATION ENHANCEMENT ACTIVITIES.—

(A) CATEGORICAL EXCLUSIONS.—To the extent appropriate, the Secretary shall develop categorical exclusions from the requirement that an environmental assessment or an environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) be prepared for transportation enhancement activities funded from the allocation required by subsection (d)(2).

(B) NATIONWIDE PROGRAMMATIC AGREEMENT.—The Administrator of the Federal Highway Administration, in consultation with the National Conference of State Historic Preservation Officers and the Advisory Council on Historic Preservation established under title II of the National Historic Preservation Act (16 U.S.C. 470i et seq.), shall develop a nationwide programmatic agreement governing the review of transportation enhancement activities funded from the allocation required by subsection (d)(2), in accordance with—

(i) section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

(ii) the regulations of the Advisory Council on Historic Preservation.

* * * * * * *

§ 141. Enforcement of requirements

[(a) Each State shall certify to the Secretary before January 1 of each year that it is enforcing all speed limits on public highways in accordance with section 154 of this title. The Secretary shall not approve any project under section 106 of this title in any State which has failed to certify in accordance with this subsection.**]**

[(b)**]** *(a)* Each State shall certify to the Secretary before January 1 of each year that it is enforcing all State laws respecting maximum vehicle size and weights permitted on the Federal-aid primary system, the Federal-aid urban system, and the Federal-aid secondary system, including the interstate System in accordance with section 127 of this title. Each State shall also certify that it is enforcing and complying with the provisions of section 127(d) of this title and section 31112 of title 49.

[(c)**]** *(b)*(1) Each State shall submit to the Secretary such information as the Secretary shall, by regulation, require as necessary, in his opinion, to verify the certification such State under such subsection **[**(b)**]***(a)* of this section.

(2) If a State fails to certify as required by subsection [(b)]*(a)* of this section or if the Secretary determines that a State is not adequately enforcing all State laws respecting such maximum vehicle size and weights, notwithstanding such a certification, the Federal-aid highway funds apportioned to such State for such fiscal year shall be reduced by amounts equal to 10 per centum of the amount which would otherwise be apportioned to such State under section 104 of this title.

(3) If within one year from the date that the apportionment for any State is reduced in accordance with paragraph (2) of this subsection the Secretary determines that such State is enforcing all State laws respecting maximum size and weights, the apportionment of such State shall be increased by an amount equal to such reduction. If the Secretary does not make such a determination within such one-year period, the amounts so withheld shall be reapportioned to all other eligible States.

[(d)]*(c)* The Secretary shall reduce the State's apportionment of Federal-aid highway funds under section 104(b)(5) of this title in an amount up to 25 per centum of the amount to be apportioned in any fiscal year beginning after September 30, 1984, during which heavy vehicles, subject to the use tax imposed by section 4481 of the Internal Revenue Code of 1954 [26 USCS § 4481], may be lawfully registered in the State without having presented proof of payment, in such form as may be prescribed by the Secretary of the Treasury, of the use tax imposed by section 4481 of such Code [26 USCS § 4481]. Amounts withheld from apportionment to a State under this subsection shall be apportioned to the other States pursuant to the formulas of section 104(b)(5) of this title and shall be available in the same manner and to the same extent as other Interstate funds apportioned at the same time to other States.

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§ 144. Highway bridge replacement and rehabilitation program

(a) * * *

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(1) Notwithstanding any other provision of law, any bridge which is owned and operated by an agency (1) which does not have taxing powers, (2) whose functions include operating a federally assisted public transit system subsidized by toll revenues, shall be eligible for assistance under this section but the amount of such assistance shall in no event exceed the cumulative amount which such agency has expended for capital and operating costs to subsidize such transit system. Before authorizing an expenditure of funds under this subsection, the Secretary shall determine that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the necessary bridge replacement or rehabilitation project. *Any non-Federal funds expended for the seismic retrofit of the bridge may be credited toward the non-Federal share required*

as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of the expenditure.

* * * * * * *

§ 149. Congestion mitigation and air quality improvement program

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

(b) ELIGIBLE PROJECTS.—Except as provided in subsection (c), a State may obligate funds *for areas in the State that were designated as nonattainment areas under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d))* apportioned to it under section 104(b)(2) for the congestion mitigation and air quality improvement program only for a transportation project or program—

(1)(A) if the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines, on the basis of information published by the Environmental Protection Agency pursuant to section 108(f)(1)(A) of the Clean Air Act [42 USCS § 7408(f)(1)(A)] ⟦(other than clauses (xii) and (xvi) of such section), that the project or program⟧ *that the publicly sponsored project or program* is likely to ⟦contribute to the⟧ *contribute to—(i) the* attainment of a national ambient air quality standard; ⟦or *(ii) the maintenance of a national ambient air quality standard in an area that was designated as a nonattainment area but that was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or*

* * * * * * *

§ 153. Use of safety belts and motorcycle helmets.

(a) * * *

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

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

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

(2) MOTOR VEHICLE. The term "motor vehicle" means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.

* * * * * * *

⟦§ 154. National maximum speed limit

(a) The Secretary of Transportation shall not approve any project under section 106 in any State which has (1) a maximum speed limit on any public highway within its jurisdiction in excess of fifty-five miles per hour other than a highway on the Interstate System

located outside of an urbanized area of 50,000 population or more, (2) a maximum speed limit on any highway within its jurisdiction on the Interstate System located outside of an urbanized area of 50,000 population or more in excess of 65 miles per hour, (3) a maximum speed limit in excess of 65 miles per hour on any highway within its jurisdiction located outside an urbanized area of 50,000 population or more (A) which is constructed to interstate standards in accordance with section 109(b) of this title and connected to a highway on the Interstate System , (B) which is a divided 4-lane fully controlled access highway designed or constructed to connect a highway on the Interstate System posted at 65 miles per hour and constructed to design and construction standards as determined by the Secretary which provide a facility adequate for a speed limit of 65 miles per hour, or (C) which is constructed to the geometric and construction standards adequate for current and probable future traffic demands and for the needs of the locality and is designated by the Secretary as part of the Interstate System in accordance with section 139(c) of this title, or (4) a speed limit on any other portion of a public highway within its jurisdiction which is not uniformly applicable to all types of motor vehicles using such portion of highway, if on November 1, 1973, such portion of highway had a speed limit which was uniformly applicable to all types of motor vehicles using it. A lower speed limit may be established for any vehicle operating under a special permit because of any weight or dimension of such vehicle, including any load thereon. Clause (4) of this subsection shall not apply to any portion of a highway during such time that the condition of the highway, weather, an accident, or other condition creates a temporary hazard to the safety of traffic on such portion of a highway.

(b) As used in this section the term "motor vehicle" means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.

(c) Notwithstanding the provisions of section 120 sums apportioned to any State under section 104 shall be available to pay the entire cost of any modification of the signing of the Federal-aid highways for which such sums are apportioned within such State due to a reduction in speed limits to conserve fuel if such change in signing occurs or has occurred after November 1, 1973.

(d) The requirements of this section shall be deemed complied with by administration action lawfully taken by the Governor or other appropriate State officials that complies with this section.

(e) Each State shall submit to the Secretary such data as the Secretary determines by rule is necessary to support its certification under section 141 of this title for the twelve-month period ending on September 30 before the date the certification is required including data on the percentage for motor vehicles exceeding the speed limit on maximum speed limit highways in accordance with criteria to be established by the Secretary, including criteria which takes into account the variability of speedometer readings and criteria based upon the speeds of all vehicles or a representative sample of all vehicles. Such data shall include, but not be limited to, data or citations, travel speeds, and the posted speed limit and the design characteristics of roads from which such travel speed data

are gathered. The Secretary shall issue regulations which ensure (1) that the monitoring programs conducted by the States to collect data for purposes of this subsection are uniform, (2) that devices and equipment under such programs are placed at locations on maximum speed limit highways or a scientifically random basis which takes into account the relative risk, as determined by the Secretary, of motor vehicle accidents occurring considering the classes of such highways and the speeds at which vehicles are traveling on such classes of highways, and (3) that the data submitted under this subsection will be in such form as the Secretary determines is necessary to carry out this section.

(f)–(h) [Repealed]

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

§ 154. Repealed.

* * * * * * *

§ 157. Minimum allocation

(a) * * *

* * * * * * *

(d) TREATMENT OF WITHHELD APPORTIONMENTS.—For purposes of subsection (a), and funds which, but for section [154(f) or] 158(a) of this title or any other provision of law under which Federal-aid highway funds are withheld from apportionment, would be apportioned to a State in a fiscal year under a section referred to in subsection (a) shall be treated as being apportioned in such year.

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§ 217. Bicycle transportation and pedestrian walkways

(a) * * *

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(f) FEDERAL SHARE.—For all purposes of this title, construction of a pedestrian walkway and a bicycle transportation facility shall be deemed to be a highway project and the Federal share payable on account of such construction shall be [80 percent.] *determined in accordance with section 120(b).*

* * * * * * *

[§ 301. Freedom from tolls

Except as provided in section 129 of this title with respect to certain toll bridges and toll tunnels, all highways constructed under the provisions of this title shall be free from tolls of all kinds.]

§ 301. Repealed.

* * * * * * *

§ 303. Management systems

(a) * * *

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[(c) STATE REQUIREMENTS.—The Secretary may withhold up to 10 percent of the funds appropriated under this title and under chapter 53 of title 49 [49 USCS §§ 5301 et seq.] for any fiscal year beginning after September 30, 1995, to any State and any recipient of assistance under such Act in the State unless, in the preceding fiscal year, the State was implementing each of the management systems described in subsection (a) and, before January 1 of the preceding fiscal year, the State certified, in writing, to the Secretary, that the State was implementing each of such management systems in the preceding fiscal year.]

(c) STATE ELECTION.—A State may, at the option of the State, elect, any time, not to implement, in whole or in part, 1 or more of the management systems required under this section. The Secretary may not impose any sanction on, or withhold any benefit from, a State on the basis of such an election.

* * * * * * *

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

(2) REPORT ON IMPLEMENTATION.—Not later than October 1, 1996, the Secretary, in consultation with States, shall transmit to Congress a report on the management systems required under this section that makes recommendations as to whether, to what extent, and how the management systems should be implemented.

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§ 307. Research and planning

(a) * * *

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(e) APPLIED RESEARCH AND TECHNOLOGY PROGRAM.—(1) * * *

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(13) FUNDING.—The Secretary shall expend from administrative and research funds deducted under section 104a of this title and funds made available under section 5313(a) of title 49, ["]$35,000,000 for fiscal year 1992 and $41,000,000 per fiscal year for each of fiscal years 1993, 1994, 1995, 1996, and 1997 to carry out this subsection. Of such amounts, in each of the fiscal years 1992, 1993, 1994, 1995, 1996, and 1997, the Secretary shall expend not less than $4,000,000 per fiscal year to carry out projects related to heated bridge technologies under paragraph (4), not less than $2,500,000 per fiscal year to carry out projects related to thin bonded overlay and surface lamination of pavements under paragraph (7), and not less than $2,000,000 per fiscal year to carry out projected related to all weather pavement markings under paragraph

(8). *Of the amounts authorized to be expended under this paragraph, $500,000 shall be expended in fiscal year 1996 to carry out section 1038(d)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 109 note) and $10,000,000 shall be expended in each of fiscal years 1996 and 1997 to carry out section 1038(d)(2) of the Act.* Amounts made available under this subsection shall remain available until expended and shall not be subject to any obligation limitation.

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§ 323. Donations

(a) * * *

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(c) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, OR SERVICES.—Nothing in this title or any other law shall prevent a person from offering to donate funds, materials, or services in connection with an activity eligible for Federal assistance under this title. In the case of such an activity with respect to which the Federal Government and the State share in paying the cost, any donated funds, or the fair market value of any donated materials or services, that are accepted and incorporated into the activity by the State highway agency shall be credited against the State share.

[(c)**]** (*d*) PROCEDURES.—A gift or donation in accordance with subsection (a) may be made at any time during the development of a project. Any document executed as part of such donation prior to the approval of an environmental document prepared pursuant to the National Environmental Policy Act of 1969 shall clearly indicate that—

(1) all alternatives to a proposed alignment will be studied and considered pursuant to such Act;

(2) acquisition of property under this section shall not influence the environmental assessment of a project including the decision relative to the need to construct the project or the selection of a specific location; and

(3) any property acquired by gift or donation shall be revested in the grantor or successors in interest if such property is not required for the alignment chosen after public hearings, if required, and completion of the environmental document.

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§ 410. Alcohol-impaired driving countermeasures

(a) * * *

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

(1) ALCOHOLIC BEVERAGE.— The term "alcoholic beverage" has the meaning such term has under section 158(c) of this title.

(2) CONTROLLED SUBSTANCES.—The term "controlled substances" has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

[(3) MOTOR VEHICLE.—The term "motor vehicle" has the meaning such term has under section 154(b) of this title.]

(3) MOTOR VEHICLE.—The term "motor vehicle" means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.

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TITLE 26—INTERNAL REVENUE CODE

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CHAPTER 98. TRUST FUND CODE

* * * * * * *

SEC. 9511. NATIONAL RECREATIONAL TRAILS TRUST FUND.

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'National Recreational Trails Trust Fund', consisting of such amounts as may be credited or paid to such Trust Fund as provided in this section, section 9503(c)(6), or section 9602(b).

(b) CREDITING OF CERTAIN UNEXPENDED FUNDS.—There shall be credited to the National Recreational Trails Trust Fund amounts returned to such Trust Fund under section 1302(e)(8) of the Intermodal Surface Transportation Efficiency Act of 1991.

(c) EXPENDITURES FROM TRUST FUND.—Amounts in the National Recreational Trails Trust Fund shall be available, [as provided in appropriation Acts,] for making expenditures before October 1, 1997, to carry out the purposes of sections 1302 and 1303 of the Intermodal Surface Transportation Efficiency Act of 1991, as in effect on the date of the enactment of such Act."

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TITLE 42—THE PUBLIC HEALTH AND WELFARE

* * * * * * *

CHAPTER 85. AIR POLLUTION PREVENTION AND CONTROL, PROGRAMS AND ACTIVITIES AIR QUALITY AND EMISSION LIMITATIONS

* * * * * * *

SEC. 7506. LIMITATIONS ON CERTAIN FEDERAL ASSISTANCE

(a) * * *

* * * * * * *

(c) ACTIVITIES NOT CONFORMING TO APPROVED OR PROMULGATED PLANS.—No department, agency, or instrumentality of the Federal Government shall (1) engage in, (2) support in any way or provide

financial assistance for, (3) license or permit, or (4) approve, any activity which does not conform to a plan after it has been approved or promulgated under section 110 [42 USCS § 7410]. No metropolitan planning organization designated under section 134 of title 23, United States Code, shall give its approval to any project, program, or plan which does not conform to a plan approved or promulgated under section 110 [42 USCS § 7410]. The assurance of conformity to such a plan shall be an affirmative responsibility of the head of such department, agency, or instrumentality.

(5) APPLICABILITY.—This subsection shall apply only with respect to—

(A) a nonattainment area and each specific pollutant for which the area is designated as a nonattainment area; and

(B) an area that was designated as a non-attainment area but that was later redesignated by the Administrator as an attainment area and that is required to develop a maintenance plan under section 175A with respect to the specific pollutant for which the area wad designated nonattainment.

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92 STAT. 2689

PUBLIC LAW 95–599 95TH CONGRESS

AN ACT To authorize appropriations for the construction of certain highways in accordance with title 23 of the United States Code, for highway safety, for mass transportation in urban and in rural areas, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Surface Transportation Assistance Act of 1978".

TITLE I

SHORT TITLE

SEC. 101. This title may be cited as the "Federal-Aid Highway Act of 1978".

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SEC. 123. ENFORCEMENT OF VEHICLE WEIGHT LIMITATIONS.—

(a)—* * *

* * * * * * *

(c) Not later than January 1 of the second calendar year which begins after the date of enactment of this section and each calendar year thereafter the Secretary shall submit to Congress an annual report together with such recommendations as the Secretary deems necessary on (1) the latest annual inventory of State systems of penalties required by subsection (a) of this section; (2) the latest annual inventory of State systems for the issuance of special permits required by subsection (b) of this section; (3) the annual cer-

tification submitted by each State required by section [141(b)] *141(a)* of title 23, United States Code.

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105 STAT. 1914

PUBLIC LAW 102–240 102d CONGRESS

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

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

SECTION 1. SHORT TITLE.

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

* * * * * * *

TITLE I—SURFACE TRANSPORTATION

PART A—TITLE 23 PROGRAMS

* * * * * * *

SEC. 1002. OBLIGATION CEILING.

(a) * * *

* * * * * * *

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

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

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

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

tional Capital Region Interstate Transportation Authority Act of 1995.

* * * * * * *

SEC. 1029. NATIONAL MAXIMUM SPEED LIMIT COMPLIANCE PROGRAM.

(a) * * *

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

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

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

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

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

* * * * * * *

SEC. 1038. USE OF RECYCLED PAVING MATERIAL.

(a) * * *

* * * * * * *

[(d) USE OF ASPHALT PAVEMENT CONTAINING RECYCLED RUBBER.—

(1) STATE CERTIFICATION.—Beginning on January 1, 1995, and annually thereafter, each State shall certify to the Secretary that such State has satisfied the minimum utilization requirement for asphalt pavement containing recycled rubber established by this section. The minimum utilization requirement for asphalt pavement containing recycled rubber as a percentage of the total tons of asphalt laid in such State and financed in whole or part by any assistance pursuant to title 23, United States Code, shall be—

(A) 5 percent for the year 1994;

(B) 10 percent for the year 1995;

(C) 15 percent for the year 1996; and

(D) 20 percent for the year 1997 and each year thereafter.

(2) OTHER MATERIALS.—Any recycled material or materials determined to be appropriate by the studies under subsection

(b) may be substituted for recycled rubber under the minimum utilization requirement of paragraph (1) up to 5 percent.

(3) INCREASE.—The Secretary may increase the minimum utilization requirement of paragraph (1) for asphalt pavement containing recycled rubber to be used in federally assisted highway projects to the extent it is technologically and economically feasible to do so and if an increase is appropriate to assure markets for the reuse and recycling of scrap tires. The minimum utilization requirement for asphalt pavement containing recycled rubber may not be met by any use or technique found to be unsuitable for use in highway projects by the studies under subsection (b).

(4) PENALTY.—The Secretary shall withhold from any State that fails to make a certification under paragraph (1) for any fiscal year, a percentage of the apportionments under section 104 (other than subsection (b)(5)(A)) of title 23, United States Code, that would otherwise be apportioned to such State for such fiscal year under such section equal to the percentage utilization requirement established by paragraph (1) for such fiscal year.

(5) SECRETARIAL WAIVER.—The Secretary may set aside the provisions of this subsection for any 3-year period on a determination, made in concurrence with the Administrator of the Environmental Protection Agency with respect to subparagraphs (A) and (B) of this paragraph, that there is reliable evidence indicating

(A) that manufacture, application, or use of asphalt pavement containing recycled rubber substantially increases the threat to human health or the environment as compared to the threats associated with conventional pavement;

(B) that asphalt pavement containing recycled rubber cannot be recycled to substantially the same degree as conventional pavement; or

(C) that asphalt pavement containing recycled rubber does not perform adequately as a material for the construction or surfacing of highways and roads.

The Secretary shall consider the results of the study under subsection (b)(1) in determining whether a 3-year set-aside is appropriate.

(6) RENEWAL OF WAIVER.—Any determination made to set aside the requirements of this section may be renewed for an additional 3-year period by the Secretary, with the concurrence of the Administrator with respect to the determinations made under paragraphs (5)(A) and (5)(B). Any determination made with respect to paragraph (5)(C) may be made for specific States or regions considering climate, geography, and other factors that may be unique to the State or region and that would prevent the adequate performance of asphalt pavement containing recycled rubber.

(7) INDIVIDUAL STATE REDUCTION.—The Secretary shall establish a minimum utilization requirement for asphalt pavement containing recycled rubber less than the minimum utilization requirement otherwise required by paragraph (1) in a

particular State, upon the request of such State and if the Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, determines that there is not a sufficient quality of scrap tires available in the State prior to disposal to meet the minimum utilization requirement established under paragraph (1) as the result of recycling and processing uses (in that State or another State), including retreading or energy recovery.]

(d) ASPHALT PAVEMENT CONTAINING RECYCLED RUBBER.—

(1) CRUMB RUBBER MODIFIER RESEARCH.—Not later than 180 days after the date of enactment of the National Highway System Designation Act of 1995, the Administrator of the Federal Highway Administration shall develop testing procedures and conduct research to develop performance grade classifications, in accordance with the strategic highway research program carried out under section 307(d) of title 23, United States Code, for crumb rubber modifier binders. The testing procedures and performance grade classifications should be developed in consultation with representatives of the crumb rubber modifier industry and other interested parties (including the asphalt paving industry) with experience in the development of the procedures and classifications.

(2) CRUMB RUBBER MODIFIER PROGRAM DEVELOPMENT.—

(A) IN GENERAL.—The Administrator of the Federal Highway Administration shall make grants to States to develop programs to use crumb rubber from scrap tires to modify asphalt pavements. Each State may receive not more than $500,000 under this paragraph.

(B) USE OF GRANT FUNDS.—Grant funds made available to States under this paragraph may be used—

(i) to develop mix designs for crumb rubber modified asphalt pavements;

(ii) for the placement and evaluation of crumb rubber modified asphalt pavement field tests; and

(iii) for the expansion of State crumb rubber modifier programs in existence on the date the grant is made available.

(e) DEFINITIONS.—For purpose of this section—

[(1) the term "asphalt pavement containing recycled rubber" means any hot mix or spray applied binder in asphalt paving mixture that contains rubber from whole scrap tires which is used for asphalt pavement base, surface course or interlayer, or other road and highway related uses and—]

(1) the term "asphalt pavement containing recycled rubber" means any mixture of asphalt and crumb rubber derived from whole scrap tires, such that the physical properties of the asphalt are modified through the mixture, for use in pavement maintenance, rehabilitation, or construction applications; and

* * * * * * *

SEC. 1069. MISCELLANEOUS HIGHWAY PROJECT AUTHORIZATIONS.

(a) * * *

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[(i) WOODROW WILSON BRIDGE.—There is authorized to be appropriated $15,000,000 for rehabilitation of the Woodrow Wilson Bridge. The Federal share of such project shall be 100 percent.]

(i) Repealed.

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SEC. 1105. HIGHER PRIORITY CORRIDORS ON NATIONAL HIGHWAY SYSTEM.

(a) * * *

* * * * * * *

(c) IDENTIFICATION OF HIGH PRIORITY CORRIDORS ON NATIONAL HIGHWAY SYSTEM.—The following are high priority corridors on the National Highway System:

(1) North-South Corridor from Kansas City, Missouri, to Shreveport, Louisiana.

(2) Avenue of the Saints Corridor from St. Louis, Missouri, to St. Paul, Minnesota.

(3) East-West Transamerica Corridor.

(4) Hoosier Heartland Industrial Corridor from Lafayette, Indiana, to Toledo, Ohio.

[(5) I–73/74 North-South Corridor from Charleston, South Carolina, through Winston-Salem, North Carolina to Portsmouth, Ohio, to Cincinnati, Ohio, and Detroit, Michigan.]

(5)(A) I–73/74 North-South Corridor from Charleston, South Carolina, through Winston-Salem, North Carolina, to Portsmouth, Ohio, to Cincinnati, Ohio, and Detroit, Michigan.

(B)(i) In the Commonwealth of Virginia, the Corridor shall generally follow—

((I) United States Route 220 from the Virginia-North Carolina border to I–581 south of Roanoke;

(II) I–581 to I–81 in the vicinity of Roanoke;

(III) I–81 to the proposed highway to demonstrate intelligent vehicle-highway systems authorized by item 29 of the table in section 1107(b) in the vicinity of Christiansburg to United States Route 460 in the vicinity of Blacksburg; and

(IV) United States Route 460 to the West Virginia State line.

(ii) In the States of West Virginia, Kentucky, and Ohio, the Corridor shall generally follow—

(I) United States Route 460 from the West Virginia State line to United States Route 52 at Bluefield, West Virginia; and

(II) United States Route 52 to United States Route 23 at Portsmouth, Ohio.

(iii) In the State of North Carolina, the Corridor shall generally follow—

(I) in the case of I–73—

(aa) United States Route 220 from the Virginia State line to State Route 68 in the vicinity of Greensboro;

(bb) State Route 68 to I–40;

(cc) I–40 to United States Route 220 in Greensboro;

(dd) United States Route 220 to United States Route 74 near Rockingham;

(ee) United States Route 74 to United States Route 76 near Whiteville;

(ff) United States Route 74/76 to United States Route 17 near Calabash; and

(gg) United States Route 17 to the South Carolina State line; and

(II) in the case of I–74—

(aa) I–88 from Bluefield, West Virginia, to the junction of I–77 and the United States Route 52 connector in Surry County, North Carolina;

(bb) I–77/United States Route 52 connector to United States Route 52 south of Mount Airy, North Carolina;

(cc) United States Route 52 to United States Route 311 in Winston-Salem, North Carolina; and

(dd) United States Route 311 to United States Route 220 in the vicinity of Randleman, North Carolina.

(iv) Each route segment referred to in clause (i), (ii), or (iii) that is not a part of the Interstate System shall be designated as a route included in the Interstate System, at such time as the Secretary determines that the route segment—

(I) meets Interstate System design standards approved by the Secretary under section 109(b) of title 23, United States Code; and

(II) meets the criteria for designation pursuant to section 139 of title 23, United States Code, except that the determination shall be made without regard to whether the route segment is a logical addition or connection to the Interstate System

* * * * * * *

(22) The Alameda Transportation Corridor along Alameda Street from the entrance to the ports of Los Angeles and Long Beach to Interstate 10, Los Angeles, California.

(23) The Interstate Route 35 Corridor from Laredo, Texas, through Oklahoma City, Oklahoma, to Wichita, Kansas, to Kansas City, Kansas/Missouri, to Des Moines, Iowa, to Minneapolis, Minnesota, to Duluth, Minnesota.

* * * * * * *

SEC. 1107. INNOVATIVE PROJECTS.

(a) IN GENERAL.—The purpose of this section is to provide assistance for highway projects demonstrating innovative techniques of highway construction and finance. Each State in which 1 of the projects authorized by subsection (b) is located shall select and use, in carrying out such project, innovative techniques in highway construction or finance. Such techniques may include state-of-the-art technology for pavement, safety, or other aspects of highway construction; innovative financing techniques; or accelerated procedures for construction.

(b) AUTHORIZATION OF PROJECTS.—The Secretary is authorized to carry out the innovative projects described in this subsection. Subject to subsection (c), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for

fiscal years 1992 through 1997 to carry out each such project the amount listed for each such project:

City/State	Innovative projects	Amount in millions
1. Cadiz, Ohio	Construction of 4-lane Limited Access Highway from Cadiz, OH to Interstate 70 Interchange at St. Clairsville, OH along U.S. Rt. 250.	20.0
* * *	* * *	
196. [Orlando,] Florida	[Land & right-of-way acquisition & guideway construction for magnetic limitation project] *1 or more regionally significant, intercity ground transportation projects.*	97.5

* * * * * * *

SEC. 1108. PRIORITY INTERMODAL PROJECTS.

(a) PURPOSE.—The purpose of this section is to provide for the construction of innovative intermodal transportation projects.

(b) AUTHORIZATION OF PRIORITY PROJECTS.—The Secretary is authorized to carry out the priority intermodal transportation projects described in this subsection. Subject to subsection (c), there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for fiscal years 1992 through 1997 to carry out each subject project the amount listed for each such project:

City/State	Intermodal projects	Amount in millions
1. Long Beach, California ...	Interchange at Terminal Island Freeway and Ocean Boulevard.	11.8
* * *	* * *	
31. Los Angeles, California .	[To improve ground access from Sepulveda Blvd. to Los Angeles, California] *For the Los Angeles International Airport central terminal ramp access project, $3,500,000; for the widening of Aviation Boulevard south of Imperial Highway, $3,500,000; for the widening of Aviation Boulevard north of Imperial Highway, $1,000,000; and for transportation systems management improvements in the vicinity of the Sepulveda Boulevard/Los Angeles International Airport tunnel, $950,000.*	8.95

* * * * * * *

PART B—NATIONAL RECREATIONAL TRAILS FUND ACT

SEC. 1301. SHORT TITLE.

This part may be cited as the "Symms National Recreational Trails Act of 1991".

SEC. 1302. NATIONAL RECREATIONAL TRAILS FUNDING PROGRAM.

(a) * * *

* * * * * * *

[(c) STATE ELIGIBILITY.—

(1) TRANSITIONAL PROVISION.—Until the date that is 3 years after the date of enactment of this part, a State shall be eligible to receive moneys under this Act only if such State's application proposes to use the moneys as provided in subsection (e).

(2) PERMANENT PROVISION.—On and after the date that is three years after the date of the enactment of this Act, a State shall be eligible to receive moneys under this part only if—

(A) a recreational trail advisory board on which both motorized and nonmotorized recreational trail users are represented exists within the State;

(B) in the case of a State that imposes a tax on nonhighway recreational fuel, the State by law reserves a reasonable estimation of the revenues from that tax for use in providing and maintaining recreational trails;

(C) the Governor of the State has designated the State official or officials who will be responsible for administering moneys received under this Act; and

(D) the State's application proposes to use moneys received under this part as provided in subsection (e).]

(c) STATE ELIGIBILITY.—A State shall be eligible to receive moneys under this part if—

(1) the Governor of the State has designated the State agency responsible for administering allocations under this section;

(2) the State proposes to obligate and ultimately obligates any allocations received in accordance with subsection (e); and

(3) a recreational trail advisory board on which both motorized and nonmotorized recreational trail users are represented exists in the State.

(d) ALLOCATION OF MONEYS IN THE FUND.—

(1) * * *

* * * * * * *

[(3) LIMITATION ON OBLIGATIONS.—The provisions of paragraphs (1) and (2) notwithstanding, the total of all obligations for recreational trails under this section shall not exceed—

(A) $30,000,000 for fiscal year 1992;
(B) $30,000,000 for fiscal year 1993;
(C) $30,000,000 for fiscal year 1994;
(D) $30,000,000 for fiscal year 1995;
(E) $30,000,000 for fiscal year 1996; and
(F) $30,000,000 for fiscal year 1997.]

* * * * * * *

(e) USE OF ALLOCATED MONEYS.—

(1) * * *

* * * * * * *

(3) GRANTS.—

(A) IN GENERAL.—A State may provide moneys received under this part to make grants to private individuals, organizations, city and county governments, and other government entities as approved by the State after considering guidance from the recreational trail advisory board satisfying the requirements of subsection [(c)(2)(A)]*(c)(3)* for uses consistent with this section.

* * * * * * *

(5) DIVERSIFIED TRAIL USE.—

(A) REQUIREMENT.—To the extent practicable and consistent with other requirements of this section, a State shall expend moneys received under this part in a manner that gives preference to project proposals which—

(i) provide for the greatest number of compatible recreational purposes including, but not limited to, those described under the definition of "recreational trail" in subsection [(g)(5)]*(i)(5);* or

(ii) provide for innovative recreational trail corridor sharing to accommodate motorized and non-motorized recreational trail use.

This paragraph shall remain effective until such time as a State has allocated not less than 40 percent of moneys received under this part in the aforementioned manner.

(B) COMPLIANCE.—The State shall receive guidance for determining compliance with subparagraph (A) from the recreational trail advisory board satisfying the requirements of subsection [(c)(2)(A)]*(c)(3).*

* * * * * * *

(8) RETURN OF MONEYS NOT EXPENDED.—

(A) Except as provided in subparagraph (B), moneys paid to a State that are not expended or dedicated to a specific project within 4 years after receipt for the purposes stated in this subsection shall be returned to the Fund and shall thereafter be reallocated under the formula stated in subsection (d).

(B) If approved by the State recreational trail advisory board satisfying the requirements of subsection [(c)(2)(A)]*(c)(3),* may be exempted from the requirements of paragraph (4) and expended or committed to projects for purposes otherwise stated in this subsection for a period not to extend beyond 4 years after receipt, after which any remaining moneys not expended or dedicated shall be returned to the Fund and shall thereafter be reallocated under the formula stated in subsection (d).

* * * * * * *

(g) CONTRACT AUTHORITY.—Funds authorized to be appropriated under this section shall be available for obligation in the manner as if the funds were apportioned under title 23, United States Code, except that the Federal share of any project under this section shall

be determined in accordance with this section and shall not be subject to any limitation on obligation applicable generally to the Federal-aid highway program.

(h) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be 50 percent.

[(g)**]** *(i)* DEFINITIONS.—For the purposes of this section—

[(1) ELIGIBLE STATE.—The term "eligible State" means a State that meets the requirements stated in subsection (c).**]**

(1) ELIGIBLE STATE.— The term "eligible State" means a State (as defined in section 101 of title 23, United States Code) that meets the requirements of subsection (c).

SEC. 6054. STRATEGIC PLAN, IMPLEMENTATIONS, AND REPORT TO CONGRESS.

(a) * * *

* * * * * * *

(e) COLLABORATIVE RESEARCH AND DEVELOPMENT.—In carrying out this part, the Secretary may carry out collaborative research and development in accordance with section 307(a)(2) of title 23, United States Code.

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SEC. 6058. FUNDING.

(a) * * *

* * * * * * *

(f) OBLIGATION OF FUNDS.—

(1) IN GENERAL.—Funds made available pursuant to subsections (a) and (b) after the date of enactment of this subsection, and other funds made available after that date to carry out specific intelligent vehicle-highway systems projects, shall be obligated not later than the last day of the fiscal year following the fiscal year with respect to which the funds are made available.

(2) REALLOCATION OF FUNDS.—If funds described in paragraph (1) are not obligated by the date described in the paragraph, the Secretary may make the funds available to carry out any other activity with respect to which funds may be made available under subsection (a) or (b).

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