

Federal income tax returns for the past three years? (If returns are provided, they will be reviewed either by Senators or by a staff member designated by the Chairman and Ranking Member. They will be treated as confidential.)

Yes.

8. Have your Federal or State tax returns been the subject of any audit, investigation or inquiry at any time? If so, please provide details, including the result of the investigation.

No.

9. As a condition of receiving the advice and consent of the Senate, do you agree to appear and testify upon request before any duly constituted committee of the Senate?

Yes.

PART C—FUTURE EMPLOYMENT PLANS

1. Do you intend to sever all connections with your present employers, business firms, business associations or business organizations in the event you are confirmed by the Senate? If not, please explain.

Yes.

2. Do you have any commitments or agreements to pursue outside employment, with or without compensation, during your service with the Government? If so, please explain.

No.

3. Do you have any commitments or agreements after completing Government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization other than those listed in the Office of Government Ethics Financial Disclosure Report (Form 278)? If so, please explain.

No.

4. Has anybody made an offer of employment to you in any capacity after you leave Government service? If so, please explain.

No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Yes.

PART D—CONFLICT OF INTEREST

1. Have you read Section 208 of Title 18 of the United States Code, Acts affecting a personal financial interest? (A copy is attached to this form.)

Yes.

2. During the past five years, have you or your spouse received any compensation or personally been involved in any financial transaction with a foreign government or interest? If so, please explain.

No.

3. Have you ever been a registered agent of a foreign government or otherwise represented a foreign government or other foreign interest? If so, provide details.

No.

4. Describe briefly any lobbying activity during the past ten years, other than in an official Government capacity, in which you or your spouse have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy. ("Lobbying activity" includes any activity performed as a representative or agent of another individual or of an organization which involves direct communication with Congressional or agency officials or employees. Activity directed at the administration and execution of law or public policy should be considered "lobbying activity" if it aims at influencing agency action in quasi-legislative proceedings, such as rule-making or rate-making, or other general policy determinations.) If you or your spouse have engaged in none, please state so.

None.

5. Describe any business relationship, dealing or financial transaction which you have had during the last five years, whether for yourself, on behalf of a client, or acting as an agent, which you believe may result in or constitute a potential conflict of interest in the position to which you have been nominated. If none, please state so.

None.

6. Is your spouse employed? If the nature of the employment is related in any way to the position for which you are seeking confirmation, please indicate your spouse's employer, the position and the length of time it has been held. If it is not, please state so.

Riggs Bank, NA, Board of Directors, one year.

PART E—ETHICAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee or other professional group? If so, provide details.

No.

2. Have you ever been investigated, arrested, or charged or held by any Federal, state or other law enforcement authority for violation of any Federal, state, county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.

No.

3. Have you ever been convicted of or entered a plea of guilty or nolo contendere to any criminal violation other than a minor traffic offense? If so, provide details.

No.

4. Are you presently or have you ever been a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No.

5. Have you been interviewed or asked to supply any information in connection with any administrative or grand jury investigation in the past 18 months? If so, provide details.

No.

6. Has any business of which you are or were an officer, director or partner been a party to any administrative agency proceeding or civil litigation relevant to the position to which you have been nominated? If so, provide details. (With respect to a business of which you are or were an officer, you need only consider proceedings and litigation that occurred while you were an officer of that business.)

No.

7. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

N/A.

AFFIDAVIT

I, Thomas S. Foley, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.
Date: June 17, 1997.

THOMAS S. FOLEY.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to request to appear and testify before any duly constituted committee of the Senate.)

By Mr. SHELBY, from the Select Committee on Intelligence:

Lieutenant General John A. Gordon, U.S. Air Force, to be Deputy Director of Central Intelligence.

(The above nomination was reported with the recommendation that he be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MCCAIN:

S. 1267. A bill to amend title 49, United States Code, to provide for enhanced intermodal transportation safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. FRIST:

S. 1268. A bill to amend the Tennessee Valley Authority Act of 1933 to modify provisions relating to the Board of Directors of the Tennessee Valley Authority, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROTH:

S. 1269. An original bill to establish objectives for negotiating and procedures for implementing certain trade agreements; from the Committee on Finance; placed on the calendar.

By Mr. ROBB:

S. 1270. A bill to amend section 8339(p) of title 5, United States Code, to clarify the computations of certain civil service retirement system annuities based on part-time service, and for other purposes; to the Committee on Governmental Affairs.

By Mr. D'AMATO:

S. 1271. An original bill to reauthorize the mass transit programs of the Federal Government, and for other purposes; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

By Mr. REED:

S. 1272. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel ARCELLA; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAHAM:

S. 1273. A bill to amend title 10, United States Code, to expand the National Mail Order Pharmacy Program of the Department of Defense to include covered beneficiaries under the military health care system who are also entitled to Medicare; to the Committee on Armed Services.

By Mr. CAMPBELL:

S. 1274. A bill to amend the Internal Revenue Code of 1986 to prohibit the Internal Revenue Service from using the threat of audit to compel agreement with the Tip Reporting Alternative Commitment or the Tip Rate Determination Agreement; to the Committee on Finance.

By Mr. MURKOWSKI (for himself and Mr. AKAKA):

S. 1275. A bill to implement further the Act (Public Law 94-241) approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN:

S. 1276. A bill to amend the Federal Power Act, to facilitate the transition to more competitive and efficient electric power markets, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JOHNSON:

S. 1277. A bill to amend the Internal Revenue Code of 1986 to allow individuals to designate any portion of their income tax overpayments, and to make other contributions, for the benefit of units of the National Park System; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN:

S. 1267. A bill to amend title 49, United States Code, to provide for enhanced intermodal transportation safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE INTERMODAL TRANSPORTATION SAFETY ACT
OF 1997

Mr. McCAIN. Mr. President, today I am introducing the Intermodal Transportation Safety Act of 1997. I offer this measure as a starting point for reauthorizing the many surface transportation safety programs last considered in the Intermodal Surface Transportation Efficiency Act [ISTEA] of 1991.

These programs, which are under the jurisdiction of the Senate Committee on Commerce, Science, and Transportation, include provisions to improve travel safety on our Nation's roads, promote the safe shipment of hazardous materials, advance pipeline transportation safety, and ensure that our Nation's commercial motor vehicle fleet is well maintained and safely operated.

Mr. President, transportation safety must be at the forefront of our deliberations during the consideration of legislation to reauthorize ISTEA. The ISTEA bill contains necessary funding and policy authorizations to improve our transportation infrastructure and facilitate the efficient and economical transportation of people and goods. The legislation I am introducing is a vital component of that effort which is intended to meet our obligation to help ensure that people and goods are transported safely.

The need for improvements in Federal transportation safety policy is crystal clear. The National Transportation Safety Board [NTSB] recently reported that deaths from transportation accidents in the United States totaled more than 44,000 for calendar year 1996. For example, highway-related deaths, which account for more than 90 percent of all transportation fatalities, rose by 109, reaching a total of 41,907. The Federal Transit Administration reported 120 fatalities from accidents associated with the operations of light and commuter rail companies, compared to 98 in 1995. And, pipeline-related deaths totaled 20, against 21 in 1995.

Mr. President, the bill I am introducing addresses a wide range of issues and programs to promote and enhance surface transportation safety in our Nation. Using the administration's reauthorization submissions as a primary guidepost, my legislation extends key safety programs for 6 years. Many of the administration's safety proposals are included, but several new initiatives are added.

The primary differences between the administration's proposals and the bill I am introducing are based on the budget agreement enacted in August. While I am sure a case can be made for additional funding in some areas, the budget agreement simply does not allow for it. Consequently, the funding

authorized under this measure fully complies within the budget agreement.

Mr. President, I would like to provide a broad overview of the various transportation safety provisions contained in this legislation. First, this bill addresses various programs under the National Highway Transportation Safety Administration [NHTSA]. The legislation reauthorizes various grant programs, administered by NHTSA, to improve safety on America's roadways. Those grant programs would provide over \$1.1 billion to the States during the next 6 years. This portion of the bill is the administration's request which I'm introducing without modification as a starting point for discussion and debate. In regard to these grant programs, the legislation is identical to the administration's proposal, with the exception that the funds authorized have been scaled down to fit within the boundaries of the budget agreement.

Second, this bill reauthorizes funding for programs to ensure the safe transportation of hazardous materials. It also includes a number of changes intended to strengthen and improve the hazardous materials transportation program. For example, according to DOT's Research and Special Programs Administration [RSPA] statistics, there were hundreds of transportation related incidents involving undeclared or hidden hazardous materials. These incidents resulted in 110 deaths and 112 injuries from January 1990 through October 1996. This legislation would give DOT inspectors the authority to open and examine the contents of packages suspected of containing hazardous materials.

This provision would help ensure that packages containing undeclared hazardous materials shipments can be removed from transportation before they harm individuals. In the event a package is opened under the bill's authorities, DOT inspectors would be required to mark the package accordingly and notify the shipper before the parcel could continue in transport.

The legislation also expands hazardous materials training access by allowing States and Indian tribes to use a portion of their grants to help train small businesses in complying with hazardous materials shipment procedures. DOT has indicated that the majority of hazardous materials shipment and packaging mistakes occur at small businesses.

The legislation also authorizes the Secretary of Transportation to issue emergency orders when it is determined that an unsafe condition poses an imminent hazard. In such a situation, the Secretary is granted the authority to issue recalls, restrictions, or out-of-service orders to lessen the dangerous condition.

Third, at the request of the majority leader, this bill incorporates S. 1115, the Comprehensive One-Call Notification Act, introduced by Senators LOTT and DASCHLE on July 31, 1997. S. 1115

would encourage a national effort to encourage States to strengthen their laws that protect underground pipelines, telecommunication cables, and other infrastructure from excavation damage.

Discussions are ongoing concerning this and several of the administration's proposals and I am hopeful that we can reach agreement on some of the remaining technical issues. Quick and timely resolution on these outstanding matters will be necessary so we can address these issues as the Intermodal Transportation Safety Act of 1997 moves to the Senate Floor.

Fourth, this bill reauthorizes the Motor Carrier Safety Assistance Program [MCSAP] which provides funding for commercial driver and vehicle safety inspections, traffic enforcement, compliance reviews, and safety data collection. It further authorizes a performance-based approach for the MCSAP, removing many of the prescriptive requirements of the program. Instead, States would be given greater flexibility to implement safety activities and goals they design to evaluate and improve truck safety programs. This new performance-based approach, to be implemented by 2000, would enable States to spend their limited resources on those activities best able to address their unique motor carrier problem areas.

This legislation also contains several other important truck and bus safety enhancement provisions. It would strengthen safety enforcement by extending the Secretary's safety jurisdiction to intrastate trips made by interstate carriers. The bill would also help ensure greater safety oversight by permitting the Secretary to contract with private entities to conduct inspections and investigations to ensure compliance with Federal motor carrier safety regulations. Similar contractual authority is already afforded to the Department of Defense and the Federal Aviation Administration. The bill further strengthens safety oversight by extending safety regulations such as commercial drivers licensing and drug and alcohol testing requirements to for-hire passenger vans. It would also permit the Secretary to order any unsafe carrier to cease operations. Currently this authority applies only to prevent unsafe operations of commercial passenger carriers and hazardous materials carriers.

I have also incorporated a number of provisions designed to promote the timely and accurate exchange of important carrier and driver safety records. This bill authorizes comprehensive information systems and strategic safety initiatives to support motor carrier regulatory and enforcement activities as requested by the administration.

It also establishes a pilot program to help facilitate the exchange of accurate driver records data history in an attempt to prevent such unacceptable tragedies as the one that occurred this

summer on the streets of Washington DC, when an unfit driver of a dump truck killed a young man. Further, this legislation would permit carriers to provide safety records of former drivers to prospective employers without the fear of a former employee taking legal action against the carrier, provided the data exchanged is accurate.

Mr. President, like every time Congress considers legislation affecting Federal motor carrier safety regulations, various segments of the industry seek exemptions. Some are common sense, such as acknowledging the special transportation time constraints of farmers during the planting and harvesting seasons, or, for example, recognizing the need to permit road maintenance crews, such as for snow removal, to operate during weather emergencies. Legislation should not be needed to permit these and other exemptions. However, that is the process we go through today.

While the Secretary already has authority to grant waivers from some or all of the regulations, the authority is almost meaningless because prior to granting an exemption, it must first be proven the exemption would not diminish safety. However, it is not possible to make such a finding unless an exemption can first be tested on a limited basis. In an attempt to address this problem and recognize the Secretary should be permitted to examine innovative approaches or alternatives to certain rules, and in turn reduce unnecessary regulatory burdens that do not produce a safety return. This legislation would authorize the Secretary to carry out pilot programs to test the affects of certain limited regulatory exemptions.

However, safety must remain at the forefront of these pilot projects. The bill language clearly states that the Secretary can only approve pilot projects that are expected to meet or exceed the overall level of safety that would be achieved with existing regulatory requirements.

Mr. President, there are other important provisions in the Intermodal Transportation Safety Act. While I will not list each and every provision, there is another initiative I want to highlight.

Our transportation system is vulnerable to security threats. Almost 2 years ago today, Arizonans and citizens throughout the country were saddened to learn of an Amtrak derailment near Hyder, AZ, which claimed the life of 1 individual and injured 78 others. Shortly after the accident, the sadness turned to shock as we learned that the derailment could have been caused by someone who may have intentionally sabotaged the track. The Arizona accident is not unique. There have been other examples of acts against railroads. Therefore, as requested by the administration, this legislation would create criminal sanctions for violent attacks against railroads, their em-

ployees, and passengers. The penalties are similar to those which currently cover vessels, airlines, motor carriers, and pipelines.

As chairman of the Senate Committee on Commerce, Science, and Transportation, I invite my colleagues to join me in determining whether any refinements to this safety bill are warranted. I welcome my colleagues input and plan to work with all members to incorporate this comprehensive safety legislation during our work on legislation to reauthorize ISTEA.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1267

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intermodal Transportation Safety Act of 1997".

SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Amendment of title 49, United States Code.
- Sec. 3. Table of contents.

Title I—Highway Safety

- Sec. 101. Highway safety programs.
- Sec. 102. National driver register.
- Sec. 103. Authorizations of appropriations.

Title II—Traffic Safety

- Sec. 201. Amendment to title 23, United States Code.
- Sec. 202. Amendments to chapter 301 (motor vehicle safety).

Title III—Hazardous Materials Transportation Reauthorization

- Sec. 301. Findings and purposes; definitions.
- Sec. 302. Handling criteria repeal.
- Sec. 303. Hazmat employee training requirements.
- Sec. 304. Registration.
- Sec. 305. Shipping paper retention.
- Sec. 306. Unsatisfactory safety rating.
- Sec. 307. Public sector training curriculum.
- Sec. 308. Planning and training grants.
- Sec. 309. Special permits and exclusions.
- Sec. 310. Administration.
- Sec. 311. Cooperative agreements.
- Sec. 312. Enforcement.
- Sec. 313. Penalties.
- Sec. 314. Preemption.
- Sec. 315. Judicial review.
- Sec. 316. Hazardous material transportation reauthorization.
- Sec. 317. Authorization of appropriations.

Title IV—Comprehensive One-call Notification

- Sec. 401. Findings.
- Sec. 402. Establishment of one-call notification programs.

Title V—Motor Carrier Safety

- Sec. 501. Statement of purpose.
- Sec. 502. Grants to States.
- Sec. 503. Federal share.

- Sec. 504. Authorization of appropriations.
- Sec. 505. Information systems and strategic safety initiatives.
- Sec. 506. Improved flow of driver history pilot program.
- Sec. 507. Motor carrier and driver safety research.
- Sec. 508. Authorization of appropriations.
- Sec. 509. Conforming amendments.
- Sec. 510. Automobile transporter defined.
- Sec. 511. Repeal of review panel; review procedure.
- Sec. 512. Commercial motor vehicle operators.
- Sec. 513. Penalties.
- Sec. 514. International registration plan and international fuel tax agreement.
- Sec. 515. Study of adequacy of parking facilities.
- Sec. 516. National minimum drinking age—technical corrections.
- Sec. 517. Application of regulations.
- Sec. 518. Authority over charter bus transportation.
- Sec. 519. Federal motor carrier safety investigations.
- Sec. 520. Foreign motor carrier safety fitness.
- Sec. 521. Commercial motor vehicle safety advisory committee.
- Sec. 522. Waivers and pilot programs.
- Title VI—Rail and Mass Transportation Anti-terrorism and Safety.
- Sec. 601. Purpose.
- Sec. 602. Amendments to the "Wrecking Trains" statute.
- Sec. 603. Terrorist attacks against mass transportation.
- Sec. 604. Investigative jurisdiction.
- Sec. 605. Safety considerations in grants or loans to commuter railroads.
- Sec. 606. Railroad accident and incident reporting.
- Sec. 607. Vehicle weight limitations—mass transportation buses.

TITLE I—HIGHWAY SAFETY

SEC. 101. HIGHWAY SAFETY PROGRAMS.

(a) UNIFORM GUIDELINES.—Section 402(a) of title 23, United States Code, is amended—

- (1) by striking the fifth sentence; and
- (2) by striking "section 4007" and inserting "section 4004".

(b) ADMINISTRATIVE REQUIREMENTS.—Section 402(b) of such title is amended—

- (1) in paragraph (1) by striking the period at the end of each of subparagraphs (A) and (B) and inserting a semicolon;

(2) in paragraph (1)(C) by inserting ", including Indian tribes," after "subdivisions of such State";

(3) in paragraph (1)(C) by striking the period at the end and inserting "; and";

(4) by striking paragraph (1)(E); and

(5) by striking paragraphs (3) and (4) and redesignating paragraph (5) as paragraph (3).

(c) APPORTIONMENT OF FUNDS.—Section 402(c) of such title is amended—

- (1) in the 6th sentence by inserting "the apportionment to the Secretary of the Interior shall not be less than three-fourths of 1 percent of the total apportionment and" after "except that"; and

(2) by striking the 7th and 8th sentences.

(d) APPLICATION IN INDIAN COUNTRY.—Section 402(i) of such title is amended to read as follows:

"(i) APPLICATION IN INDIAN COUNTRY.—

"(1) IN GENERAL.—For the purpose of application of this section in Indian country, the terms 'State' and 'Governor of a State' include the Secretary of the Interior and the term 'political subdivision of a State' includes an Indian tribe. Notwithstanding the provisions of subparagraph (b)(1)(C) of this section, 95 percent of the funds apportioned to the Secretary of the Interior under this

section shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions. The provisions of subparagraph (b)(1)(D) of this section shall be applicable to Indian tribes, except to those tribes with respect to which the Secretary determines that application of such provisions would not be practicable.

"(2) INDIAN COUNTRY DEFINED.—For the purposes of this subsection, the term 'Indian country' means—

"(A) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

"(B) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

"(C) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments."

(e) RULEMAKING PROCESS.—Section 402(j) of such title is amended to read as follows:

"(j) RULEMAKING PROCESS.—The Secretary may from time to time conduct a rulemaking process to identify highway safety programs that are highly effective in reducing motor vehicle crashes, injuries and deaths. Any such rulemaking shall take into account the major role of the States in implementing such programs. When a rule promulgated in accordance with this section takes effect, States shall consider these highly effective programs when developing their highway safety programs."

(f) SAFETY INCENTIVE GRANTS.—Section 402(k) of such title is amended to read as follows:

"(k)(1) SAFETY INCENTIVE GRANTS: GENERAL AUTHORITY.—The Secretary shall make a grant to a State that takes specific actions to advance highway safety under subsection (l), (m), (n), or (o) of this section. A State may qualify for more than one grant and shall receive a separate grant for each subsection for which it qualifies. Such grants may only be used by recipient States to implement and enforce, as appropriate, the programs for which the grants are awarded.

"(2) MAINTENANCE OF EFFORT.—No grant may be made to a State under subsection (l), (m), (n), or (o) of this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for the specific actions for which a grant is provided at or above the average level of such expenditures in its 2 fiscal years preceding the date of the enactment of this subsection.

"(3) MAXIMUM PERIOD OF ELIGIBILITY; FEDERAL SHARE FOR GRANTS.—Each grant under subsection (l), (m), (n), or (o) of this section shall be available for not more than 6 fiscal years beginning in the fiscal year after September 30, 1997, in which the State becomes eligible for the grant. The Federal share payable for any grant under subsection (l), (m), (n), or (o) shall not exceed—

"(A) in the first and second fiscal years in which the State receives the grant, 75 percent of the cost of implementing and enforcing, as appropriate, in such fiscal year a program adopted by the State;

"(B) in the third and fourth fiscal years in which the State receives the grant, 50 percent of the cost of implementing and enforcing, as appropriate, in such fiscal year such program; and

"(C) in the fifth and sixth fiscal years in which the State receives the grant, 25 percent of the cost of implementing and enforcing, as appropriate, in such fiscal year such program.

"(l) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES: BASIC GRANT ELIGIBILITY.—The Secretary shall make grants to those States that adopt and implement effective programs to reduce traffic safety problems resulting from persons driving under the influence of alcohol. A State shall become eligible for one or more of three basic grants under this subsection by adopting or demonstrating the following to the satisfaction of the Secretary:

"(1) BASIC GRANT A.—At least 4 of the following:

"(A) ADMINISTRATIVE LICENSE REVOCATION.—An administrative driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

"(i) in the case of a person who, in any 5-year period beginning after the date of enactment of this subsection, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as proposed by a law enforcement officer, the State agency responsible for administering drivers' licenses, upon receiving the report of the law enforcement officer—

"(I) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

"(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

"(ii) the suspension and revocation referred to under clause (A)(i) of this subparagraph shall take effect not later than 30 days after the day on which the person refused to submit to a chemical test or received notice of having been determined to be driving under the influence of alcohol, in accordance with the State's procedures.

"(B) UNDERAGE DRINKING PROGRAM.—An effective system, as determined by the Secretary, for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages. Such system may include the issuance of drivers' licenses to individuals under age 21 that are easily distinguishable in appearance from drivers' licenses issued to individuals age 21 years of age or older.

"(C) STOPPING MOTOR VEHICLES.—Either—

"(i) A statewide program for stopping motor vehicles on a nondiscriminatory, lawful basis for the purpose of determining whether the operators of such motor vehicles are driving while under the influence of alcohol, or

"(ii) a statewide Special Traffic Enforcement Program for impaired driving that emphasizes publicity for the program.

"(D) REPEAT OFFENDERS.—Effective sanctions for repeat offenders convicted of driving under the influence of alcohol. Such sanctions, as determined by the Secretary, may include electronic monitoring; alcohol interlocks; intensive supervision of probation; vehicle impoundment, confiscation, or forfeiture; and dedicated detention facilities.

"(E) GRADUATED LICENSING SYSTEM.—A three-stage graduated licensing system for young drivers that includes nighttime driving restrictions during the first two stages, requires all vehicle occupants to be properly restrained, and makes it unlawful for a person under age 21 to operate a motor vehicle with a blood alcohol concentration of .02 percent or greater.

"(2) BASIC GRANT B.—Both of the following:

"(A) ADMINISTRATIVE LICENSE REVOCATION.—An administrative driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

"(i) in the case of a person who, in any 5-year period beginning after the date of enactment of this subsection, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as requested by a law enforcement officer, the State agency responsible for administering drivers' licenses, upon receiving the report of the law enforcement officer—

"(I) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

"(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

"(ii) the suspension and revocation referred to under clause (A)(i) of this subparagraph shall take effect not later than 30 days after the day on which the person refused to submit to a chemical test or receives notice of having been determined to be driving under the influence of alcohol, in accordance with the State's procedures; and

"(B) .08 BAC PER SE LAW.—A law that provides that any person with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle shall be deemed to be driving while intoxicated.

"(3) BASIC GRANT C.—Both of the following:

"(A) FATAL IMPAIRED DRIVER PERCENTAGE REDUCTION.—The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State has decreased in each of the 3 most recent calendar years for which statistics for determining such percentages are available; and

"(B) FATAL IMPAIRED DRIVER PERCENTAGE COMPARISON.—The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State has been lower than the average percentage for all States in each of such calendar years.

"(4) BASIC GRANT AMOUNT.—The amount of each basic grant under this subsection for any fiscal year shall be up to 15 percent of the amount apportioned to the State for fiscal year 1997 under section 402 of this title.

"(5) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES: SUPPLEMENTAL GRANTS.—During the period in which a State is eligible for a basic grant under this subsection, the State shall be eligible to receive a supplemental grant in no more than two fiscal years of up to 5 percent of the amount apportioned to the State in fiscal year 1997 under section 402 of this title. The State may receive a separate supplemental grant for meeting each of the following criteria:

"(A) OPEN CONTAINER LAWS.—The State makes unlawful the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway, except—

"(i) as allowed in the passenger area, by a person (other than the driver), of any motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers; or

"(ii) as otherwise specifically allowed by such State, with the approval of the Secretary, but in no event may the driver of such motor vehicle be allowed to possess or consume an alcoholic beverage in the passenger area.

"(B) MANDATORY BLOOD ALCOHOL CONCENTRATION TESTING PROGRAMS.—The State provides for mandatory blood alcohol concentration testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in a crash resulting in the loss

of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense.

“(C) VIDEO EQUIPMENT FOR DETECTION OF DRUNK DRIVERS.—The State provides for a program to acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol and in prosecuting those persons, and to train personnel in the use of that equipment.

“(D) BLOOD ALCOHOL CONCENTRATION FOR PERSONS UNDER AGE 21.—The State enacts and enforces a law providing that any person under age 21 with a blood alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated or driving under the influence of alcohol, and further provides for a minimum suspension of the person's driver's license for not less than 30 days.

“(E) SELF-SUSTAINING DRUNK DRIVING PREVENTION PROGRAM.—The State provides for a self-sustaining drunk driving prevention program under which a significant portion of the fines or surcharges collected from individuals apprehended and fined for operating a motor vehicle while under the influence of alcohol are returned to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

“(F) REDUCING DRIVING WITH A SUSPENDED LICENSE.—The State enacts and enforces a law to reduce driving with a suspended license. Such law, as determined by the Secretary, may require a “zebra” stripe that is clearly visible on the license plate of any motor vehicle owned and operated by a driver with a suspended license.

“(G) EFFECTIVE DWI TRACKING SYSTEM.—The State demonstrates an effective driving while intoxicated (DWI) tracking system. Such a system, as determined by the Secretary, may include data covering arrests, case prosecutions, court dispositions and sanctions, and provide for the linkage of such data and traffic records systems to appropriate jurisdictions and offices within the State.

“(H) ASSESSMENT OF PERSONS CONVICTED OF ABUSE OF CONTROLLED SUBSTANCES; ASSIGNMENT OF TREATMENT FOR ALL DWI/DUI OFFENDERS.—The State provides for assessment of individuals convicted of driving while intoxicated or driving under the influence of alcohol or controlled substances, and for the assignment of appropriate treatment.

“(I) USE OF PASSIVE ALCOHOL SENSORS.—The State provides for a program to acquire passive alcohol sensors to be used by police officers in detecting persons who operate motor vehicles while under the influence of alcohol, and to train police officers in the use of that equipment.

“(J) EFFECTIVE PENALTIES FOR PROVISION OR SALE OF ALCOHOL TO PERSONS UNDER 21.—The State enacts and enforces a law that provides for effective penalties or other consequences for the sale or provision of alcoholic beverages to any individual under 21 years of age.

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

“(A) ‘Alcoholic beverage’ has the meaning such term has under section 158(c) of this title.

“(B) ‘Controlled substances’ has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

“(C) ‘Motor vehicle’ means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

“(D) ‘Open alcoholic beverage container’ means any bottle, can, or other receptacle—

“(i) which contains any amount of an alcoholic beverage; and

“(ii)(I) which is open or has a broken seal, or

“(II) the contents of which are partially removed.

“(m) OCCUPANT PROTECTION: BASIC GRANT ELIGIBILITY.—The Secretary shall make basic grants to those States that adopt and implement effective programs to reduce highway deaths and injuries resulting from persons riding unrestrained or improperly restrained in motor vehicles. A State may establish its eligibility for one or both of the grants by adopting or demonstrating the following to the satisfaction of the Secretary:

“(1) BASIC GRANT A.—At least 4 of the following:

“(A) SAFETY BELT USE LAW FOR ALL FRONT SEAT PASSENGERS.—The State has in effect a safety belt use law that makes unlawful throughout the State the operation of a passenger motor vehicle whenever a person in the front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly secured about the person's body.

“(B) PRIMARY SAFETY BELT USE LAW OR PENALTY POINTS.—The State provides for primary enforcement of its safety belt use law or provides for the imposition of penalty points against a person's driver's license for a violation of its safety belt use law.

“(C) CHILD PASSENGER PROTECTION LAW.—The State has in effect a law that requires any child up to 4 years of age who is riding in a passenger motor vehicle to be properly secured in a child safety seat.

“(D) MINIMUM FINES.—The State requires a minimum fine of at least \$25 for violations of its safety belt use law and a minimum fine of at least \$25 for violations of its child passenger protection law.

“(E) SPECIAL TRAFFIC ENFORCEMENT PROGRAM.—The State demonstrates implementation of a statewide Special Traffic Enforcement Program for occupant protection that emphasizes publicity for the program.

“(2) BASIC GRANT B.—Both of the following:

“(A) STATE SAFETY BELT USE RATE.—The State demonstrates a statewide safety belt use rate in both front outboard seating positions in all passenger motor vehicles of 80 percent or higher in each of the first three years a grant under this paragraph is received, and of 85 percent or higher in each of the fourth, fifth, and sixth years a grant under this paragraph is received.

“(B) SURVEY METHOD.—The State follows safety belt use survey methods which conform to guidelines issued by the Secretary ensuring that such measurements are accurate and representative.

“(3) BASIC GRANT AMOUNT.—The amount of each basic grant for which a State qualifies under this subsection for any fiscal year shall equal up to 20 percent of the amount apportioned to the State for fiscal year 1997 under section 402 of this title.

“(4) OCCUPANT PROTECTION PROGRAM: SUPPLEMENTAL GRANTS.—During the period in which a State is eligible for a basic grant under this subsection, the State shall be eligible to receive a supplemental grant in a fiscal year of up to 5 percent of the amount apportioned to the State in fiscal year 1997 under section 402 of this title. The State may receive a separate supplemental grant for meeting each of the following criteria:

“(A) PENALTY POINTS AGAINST A DRIVER'S LICENSE FOR VIOLATIONS OF CHILD PASSENGER PROTECTION REQUIREMENTS.—The State has in effect a law that requires the imposition of penalty points against a driver's license for violations of child passenger protection requirements.

“(B) ELIMINATION OF NON-MEDICAL EXEMPTIONS TO SAFETY BELT AND CHILD PASSENGER PROTECTION LAWS.—The State has in effect safety belt and child passenger protection

laws that contain no nonmedical exemptions.

“(C) CHILD OCCUPANT PROTECTION EDUCATION PROGRAM.—The State demonstrates implementation of a statewide comprehensive child occupant protection education program that includes education about proper seating positions for children in air bag equipped motor vehicles and instruction on how to reduce the improper use of child restraints systems.

“(D) OPEN BED LAWS.—The State has in effect a law that prohibits persons from riding in the open bed of a pickup truck.

“(E) SAFETY BELT USE IN REAR SEATS.—The State has in effect a law that requires safety belt use by all rear-seat passengers in all passenger motor vehicles with a rear seat.

“(5) DEFINITIONS.—As used in this subsection—

“(A) ‘Child safety seat’ means any device except safety belts, designed for use in a motor vehicle to restrain, seat, or position children who weigh 50 pounds or less.

“(B) ‘Motor vehicle’ means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

“(C) ‘Multipurpose passenger vehicle’ means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed either on a truck chassis or with special features for occasional off-road operation.

“(D) ‘Passenger car’ means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

“(E) ‘Passenger motor vehicle’ means a passenger car or a multipurpose passenger motor vehicle.

“(F) ‘Safety belt’ means—

“(i) with respect to open-body passenger vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

“(ii) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.

“(n) STATE HIGHWAY SAFETY DATA IMPROVEMENTS.—The Secretary shall make a grant to a State that takes effective actions to improve the timeliness, accuracy, completeness, uniformity, and accessibility of the State's data needed to identify priorities within State and local highway and traffic safety programs, to evaluate the effectiveness of such efforts, and to link these State data systems, including traffic records, together and with other data systems within the State, such as systems that contain medical and economic data:

“(1) FIRST-YEAR GRANT ELIGIBILITY.—A State is eligible for a first-year grant under this subsection in a fiscal year if such State either:

“(A) Demonstrates, to the satisfaction of the Secretary, that it has—

“(i) established a Highway Safety Data and Traffic Records Coordinating Committee with a multi-disciplinary membership including the administrators, collectors, and users of such data (including the public health, injury control, and motor carrier communities) of highway safety and traffic records databases;

“(ii) completed within the preceding 5 years a highway safety data and traffic records assessment or audit of its highway safety data and traffic records system; and

“(iii) initiated the development of a multi-year highway safety data and traffic records strategic plan to be approved by the Highway Safety Data and Traffic Records Coordinating Committee that identifies and

prioritizes its highway safety data and traffic records needs and goals, and that identifies performance-based measures by which progress toward those goals will be determined; or

“(B) Provides, to the satisfaction of the Secretary—

“(i) certification that it has met the provisions outlined in clauses (A)(i) and (A)(ii) of subparagraph (A) of this paragraph;

“(ii) a multi-year plan that identifies and prioritizes the State's highway safety data and traffic records needs and goals, that specifies how its incentive funds for the fiscal year will be used to address those needs and the goals of the plan, and that identifies performance-based measures by which progress toward those goals will be determined; and

“(iii) certification that the Highway Safety Data and Traffic Records Coordinating Committee continues to operate and supports the multi-year plan described in clause (B)(ii) of this subparagraph.

“(2) FIRST-YEAR GRANT AMOUNT.—The amount of a first-year grant made for State highway safety data and traffic records improvements for any fiscal year to any State eligible for such a grant under subparagraph (1)(A) of paragraph (A) of this subsection shall equal \$125,000, subject to the availability of appropriations, and for any State eligible for such a grant under subparagraph (1)(B) of this subsection shall equal a proportional amount of the amount apportioned to the State for fiscal year 1997 under section 402 of this title, except that no State shall receive less than \$225,000, subject to the availability of appropriations.

“(3) STATE HIGHWAY SAFETY DATA AND TRAFFIC RECORDS IMPROVEMENTS: SUCCEEDING-YEAR GRANTS.—A State shall be eligible for a grant in any fiscal year succeeding the first fiscal year in which the State receives a State highway safety data and traffic records grant if the State, to the satisfaction of the Secretary:

“(A) Submits or updates a multi-year plan that identifies and prioritizes the State's highway safety data and traffic records needs and goals, that specifies how its incentive funds for the fiscal year will be used to address those needs and the goals of the plan, and that identifies performance-based measures by which progress toward those goals will be determined;

“(B) Certifies that its Highway Safety Data and Traffic Records Coordinating Committee continues to support the multi-year plan; and

“(C) Reports annually on its progress in implementing the multi-year plan.

“(4) SUCCEEDING-YEAR GRANT AMOUNTS.—The amount of a succeeding-year grant made for State highway safety data and traffic records improvements for any fiscal year to any State that is eligible for such a grant shall equal a proportional amount of the amount apportioned to the State for fiscal year 1997 under section 402 of this title, except that no State shall receive less than \$225,000, subject to the availability of appropriations.

“(o) DRUGGED DRIVING COUNTER-MEASURES.—The Secretary shall make grants to those States that adopt and implement effective programs to reduce drug use and drugged driving:

“(i) GRANT ELIGIBILITY.—A State is eligible for a grant under this subsection in a fiscal year by meeting, to the satisfaction of the Secretary, 5 or more of the following criteria:

“(A) ZERO TOLERANCE FOR DRUGS.—The State has in effect a law that requires that any person with a measurable amount of a controlled substance, a combination of controlled substances, or a combination of alco-

hol and controlled substances when driving a motor vehicle shall be deemed to be driving under the influence of or impaired by a controlled substance.

“(B) DRUG IMPAIRED DRIVING.—The State has in effect a law that makes it unlawful for any person to drive or be in actual physical control of a motor vehicle while under the influence of or impaired by a drug or substance (licit or illicit).

“(C) MANDATORY TESTING FOR DRUGS OR SUBSTANCES.—The State has in effect a law that provides for mandatory chemical testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in a crash resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed a drug or substance-related traffic offense.

“(D) ADMINISTRATIVE LICENSE REVOCATION.—The State has in effect an administrative driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of a drug or substance which requires that—

“(i) in the case of a person who, in any 5-year period beginning after the date of enactment of this subsection, is determined on the basis of one or more chemical tests to have been operating a motor vehicle under the influence of a drug or substance or is determined to have refused to submit to such a test as requested by the law enforcement officer, the State agency responsible for administering drivers' licenses, upon receipt of the report of the law enforcement officer—

“(I) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

“(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

“(ii) the suspension and revocation referred to under (D)(i) shall take effect not later than 30 days after the day on which the person was determined to have been driving under the influence of drugs or refused to take a chemical test in accordance with the State's procedures.

“(E) LICENSE REVOCATION OR SUSPENSION OF PERSONS CONVICTED OF DRUG OFFENSES.—The State has in effect a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception—

“(i) the revocation, or suspension for at least 6 months, of the driver's license of any person who is convicted, after the enactment of such law, of—

“(I) any violation of the Controlled Substances Act, or

“(II) any drug offense; and

“(ii) a delay in the issuance or reinstatement of a driver's license to such a person for at least 6 months after the person applies for the issuance or reinstatement of a driver's license if the person does not have a driver's license, or the driver's license of the person is suspended, at the time the person is so convicted.

“(F) GRADUATED LICENSING.—The State has adopted an effective three-stage graduated licensing system for young drivers, as determined by the Secretary, that includes drug use and drugged driving provisions.

“(G) ACTIVE ENFORCEMENT AND PUBLICITY.—The State provides for active enforcement and publicity, as determined by the Secretary, of drugged driving laws.

“(H) DRUG INTERVENTION.—The State has in effect a system that provides for an assessment of persons determined to have been operating a motor vehicle under the influence of or impaired by a drug or controlled substance, as determined by the Secretary,

and referral to drug education, counseling, and treatment, as appropriate.

“(I) DRUG EDUCATION.—The State has adopted an effective educational program, as determined by the Secretary, under which drug information is provided to persons who apply for and who renew their driver's licenses, and drug-related questions are included on drivers' license examinations.

“(2) GRANT AMOUNT.—The amount of a grant made for drugged driving counter-measures for any fiscal year to any eligible State shall not be more than 20 percent of the amount apportioned to the State for fiscal year 1997 under section 402 of this title.

“(3) DEFINITIONS.—For the purposes of this subsection—

“(A) ‘Alcoholic beverage’ has the meaning such term has under section 158(c) of this title.

“(B) ‘Controlled substances’ has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

“(C) ‘Motor vehicle’ means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.”.

(g) CONFORMING AMENDMENT.—Section 410 of chapter 4 of this title is repealed, and the analysis for chapter 4 of this title is amended by striking the item relating to Section 410.

SEC. 102. NATIONAL DRIVER REGISTER.

(a) TRANSFER OF SELECTED FUNCTIONS TO NON-FEDERAL MANAGEMENT.—Section 30302 of title 49, United States Code, is amended by adding at the end thereof the following:

“(e) TRANSFER OF SELECTED FUNCTIONS TO NON-FEDERAL MANAGEMENT.—(1) The Secretary may enter into an agreement with an organization that represents the interests of the States to manage, administer, and operate the National Driver Register's computer timeshare and user assistance functions. If the Secretary decides to enter into such an agreement, the Secretary shall ensure that the management of these functions is compatible with this chapter and the regulations issued to implement this chapter.

“(2) Any transfer of the National Driver Register's computer timeshare and user assistance functions to an organization that represents the interests of the States shall begin only after a determination is made by the Secretary that all States are participating in the National Driver Register's ‘Problem Driver Pointer System’ (the system used by the Register to effect the exchange of motor vehicle driving records), and that the system is functioning properly.

“(3) The agreement entered into under this subsection shall include a provision for a transition period sufficient to allow the States to make the budgetary and legislative changes they may need to pay fees charged by the organization representing their interests for their use of the National Driver Register's computer timeshare and user assistance functions. During this transition period, the Secretary (through the National Highway Traffic Safety Administration) shall continue to fund these transferred functions.

“(4) The total of the fees charged by the organization representing the interests of the States in any fiscal year for the use of the National Driver Register's computer timeshare and user assistance functions shall not exceed the total cost to the organization for performing these functions in such fiscal year.

“(5) Nothing in this subsection shall be construed to diminish, limit, or otherwise affect the authority of the Secretary to carry out this chapter.”.

(b) ACCESS TO REGISTER INFORMATION.—

(1) CONFORMING AMENDMENTS.—Section 30305(b) of title 49, United States Code, is amended—

(A) in paragraph (2), by inserting before the period at the end “, unless the information is about a revocation or suspension still in effect on the date of the request”;

(B) In paragraph (8), as redesignated by section 207(b) of the Coast Guard Authorization Act of 1996 (Public Law 104-324, 110 Stat. 3908), by striking “paragraph (2)” and substituting “subsection (a) of this section”; and

(C) by redesignating paragraph (8), as redesignated by section 502(b)(1) of the Federal Aviation Reauthorization Act of 1996 (Public Law 104-264, 110 Stat. 3262), as paragraph (9).

(2) FEDERAL AGENCY ACCESS PROVISION.—Section 30305(b) of title 49, United States Code, is further amended by—

(A) redesignating paragraph (6) as paragraph (10) and inserting it after paragraph (9);

(B) inserting the following new paragraph (6):

“(6) The head of a Federal department or agency that issues motor vehicle operator's licenses may request the chief driver licensing official of a State to obtain information under subsection (a) of this section about an individual applicant for a motor vehicle operator's license from such department or agency. The department or agency may receive the information, provided it transmits to the Secretary a report regarding any individual who is denied a motor vehicle operator's license by that department or agency for cause; whose motor vehicle operator's license is revoked, suspended or canceled by that department or agency for cause; or about whom the department or agency has been notified of a conviction of any of the motor vehicle-related offenses or comparable offenses listed in subsection 30304(a)(3) and over whom the department or agency has licensing authority. The report shall contain the information specified in subsection 30304(b).”; and

(C) inserting the following at the end of the subsection:

“(11) The head of a Federal department or agency authorized to receive information regarding an individual from the Register under this section may request and receive such information from the Secretary.”.

SEC. 103. AUTHORIZATIONS OF APPROPRIATIONS.

(a) HIGHWAY SAFETY PROGRAMS.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) CONSOLIDATED STATE HIGHWAY SAFETY PROGRAMS.—

(A) For carrying out the State and Community Highway Safety Program under section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration, except for the incentive programs under subsections (l), (m), (n), and (o) of that section—

- (i) \$116,370,000 for fiscal year 1998;
- (ii) \$121,838,000 for fiscal year 1999;
- (iii) \$125,125,000 for fiscal year 2000;
- (iv) \$128,505,000 for fiscal year 2001;
- (v) \$131,809,000 for fiscal year 2002; and
- (vi) \$139,732,000 for fiscal year 2003.

(B) To carry out the alcohol-impaired driving countermeasures incentive grant provisions of subsection (l) of section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration—

- (i) \$30,570,000 for fiscal year 1998;
- (ii) \$28,500,000 for fiscal year 1999;
- (iii) \$29,273,000 for fiscal year 2000;
- (iv) \$30,065,000 for fiscal year 2001;
- (v) \$38,743,000 for fiscal year 2002; and
- (vi) \$39,815,000 for fiscal year 2003.

Amounts made available to carry out subsection (l) are authorized to remain available until expended, provided that, in each fiscal

year the Secretary may reallocate any amounts remaining available under subsection (l) to subsections (m), (n), and (o) of section 402 of title 23, United States Code, as necessary to ensure, to the maximum extent possible, that States may receive the maximum incentive funding for which they are eligible under these programs.

(C) To carry out the occupant protection program incentive grant provisions of subsection (m) of section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration—

- (i) \$13,950,000 for fiscal year 1998;
- (ii) \$14,618,000 for fiscal year 1999;
- (iii) \$15,012,000 for fiscal year 2000;
- (iv) \$15,418,000 for fiscal year 2001;
- (v) \$17,640,000 for fiscal year 2002; and
- (vi) \$17,706,000 for fiscal year 2003.

Amounts made available to carry out subsection (m) are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under subsection (m) to subsections (l), (n), and (o) of section 402 of title 23, United States Code, as necessary to ensure, to the maximum extent possible, that States may receive the maximum incentive funding for which they are eligible under these programs.

(D) To carry out the State highway safety data improvements incentive grant provisions of subsection (n) of title 23, United States Code, by the National Highway Traffic Safety Administration—

- (i) \$8,370,000 for fiscal year 1998;
- (ii) \$8,770,000 for fiscal year 1999;
- (iii) \$9,007,000 for fiscal year 2000; and
- (iv) \$9,250,000 for fiscal year 2001.

Amounts made available to carry out subsection (n) are authorized to remain available until expended.

(E) To carry out the drugged driving countermeasures incentive grant provisions of section 402(o) of title 23, United States Code, by the National Highway Traffic Safety Administration—

- (i) \$3,488,000 for fiscal year 1998;
- (ii) \$3,654,000 for fiscal year 1999;
- (iii) \$3,752,000 for fiscal year 2000;
- (iv) \$3,850,000 for fiscal year 2001;
- (v) \$3,950,000 for fiscal year 2002; and
- (vi) \$4,071,000 for fiscal year 2003.

Amounts made available to carry out subsection (o) are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under subsection (o) to subsections (l), (m), and (n) of section 402 of title 23, United States Code, as necessary to ensure, to the maximum extent possible, that States may receive the maximum incentive funding for which they are eligible under these programs.

(2) NATIONAL DRIVER REGISTER.—For carrying out chapter 303 (National Driver Register) of title 49, United States Code, by the National Highway Traffic Safety Administration—

- (i) \$1,605,000 for fiscal year 1998;
- (ii) \$1,680,000 for fiscal year 1999;
- (iii) \$1,726,000 for fiscal year 2000;
- (iv) \$1,772,000 for fiscal year 2001;
- (v) \$1,817,000 for fiscal year 2002; and
- (vi) \$1,872,000 for fiscal year 2003.

TITLE II—TRAFFIC SAFETY

SEC. 201. AMENDMENT TO TITLE 23, UNITED STATES CODE.

Section 402 of title 23, United States Code, is amended by adding at the end the following new subsection:

“(p) TRANSFER OF FUNDS AND PERFORMANCE OPTION: PRIMARY SAFETY BELT USE.—

“(1) TRANSFER.—

“(A) FISCAL YEAR 2002.—If, by the last day of fiscal year 2002, a State has not enacted

and had in continuous effect a primary enforcement safety belt use law described in subsection (m), the Secretary shall transfer 1½ percent of the funds apportioned to the State for fiscal year 2003 under each of paragraphs (1), (3), and (5)(B) of section 104(b) of this title to the apportionment of the State under section 402 of this title. These transferred funds may be used only for occupant protection programs.

“(B) THEREAFTER.—If, by the last day of any fiscal year beginning after September 30, 2002, a State has not enacted and had in continuous effect a primary enforcement safety belt use law described in subsection (m), the Secretary shall transfer 3 percent of the funds apportioned to the State for the succeeding fiscal year under each of paragraphs (1), (3), and (5)(B) of section 104(b) of this title to the apportionment of the State under section 402 of this title. These transferred funds may be used only for occupant protection programs.

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

“(3) TRANSFER OF OBLIGATION AUTHORITY.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 of this title for a fiscal year, the Secretary shall allocate an amount of obligation authority distributed for such fiscal year to the State for Federal-aid highways and highway construction programs for carrying out only projects under section 402, which is determined by multiplying—

“(A) the amount of funds transferred to the apportionment of section 402 of the State under section 402 for such fiscal year, by

“(B) the ratio of the amount of obligation authority distributed for such fiscal year to the State for its Federal-aid highways and highway construction programs to the total of the sums apportioned to the State for its Federal-aid highways and highway construction programs (excluding sums not subject to any obligation limitation) for such fiscal year.

“(4) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 of this title shall apply to funds transferred under this subsection to the State apportionment of section 402.

“(5) PERFORMANCE OPTION.—Paragraph (1) of this subsection shall not apply to a State in a fiscal year beginning after September 30, 2002, if the Secretary certifies before each such fiscal year that the State has a statewide safety belt use rate of 85 percent or higher in both front outboard seating positions in all passenger motor vehicles, as defined in subsection (m) of this section. The State shall document its safety belt use rate by conducting an annual survey that conforms to guidelines issued by the Secretary ensuring that measurements are accurate and representative. The Secretary shall use this survey and may use additional surveys or other relevant information as necessary in deciding whether to certify that the State's safety belt use rate is 85 percent or higher.

“(6) DEFINITION.—For the purposes of this subsection, the term ‘safety belt’ means—

“(A) with respect to open-body passenger vehicles, including convertibles, an occupant restraint system, consisting of a lap belt or a lap belt and a detachable shoulder belt; and

“(B) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap shoulder belts.”.

SEC. 202. AMENDMENTS TO CHAPTER 301 (MOTOR VEHICLE SAFETY).

(a) IN GENERAL.—Chapter 301 is amended by adding at the end the following new section:

“§ 30148. International motor vehicle safety outreach

“(a) ACTIVITIES.—The Secretary is authorized, in consultation with the Secretaries of State and Commerce where appropriate, to engage in activities that improve worldwide motor vehicle safety through appropriate activities. Such activities may include—

“(1) promoting the adoption of international and national vehicle standards that are harmonized with, functionally equivalent to, or compatible with United States vehicle standards;

“(2) participating in efforts to foster an international acceptance of globally harmonized and/or functionally equivalent or compatible motor vehicle regulations and standards to otherwise improve international highway and motor vehicle safety;

“(3) promoting international cooperative programs for conducting research, development, demonstration projects, training, and other forms of technology transfer and exchange, including safety conferences, seminars, and/or expositions to enhance international motor vehicle safety; and

“(4) providing technical assistance to other countries relating to their adoption of United States vehicle regulations or standards functionally equivalent to United States vehicle standards.

“(b) COOPERATION.—The Secretary may carry out the authority granted by this section, in cooperation with appropriate United States government agencies, any State or local agency, and any authority, association, institution, corporation (profit or nonprofit), foreign government, multinational institution, or any other organization or person.

“(c) CONSIDERATION.—When engaging in activities to improve worldwide motor vehicle safety, the Secretary shall ensure that these activities maintain or improve the level of safety of motor vehicles and motor vehicle equipment sold in the United States.”

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 301 is amended by adding at the end thereof the following:

“30148. International motor vehicle safety outreach”.

TITLE III—HAZARDOUS MATERIALS TRANSPORTATION REAUTHORIZATION**SEC. 301. FINDINGS AND PURPOSES; DEFINITIONS.**

(a) FINDINGS AND PURPOSES.—Section 5101 is amended to read as follows:

“§ 5101. Findings and purposes

“(a) FINDINGS.—The Congress finds with respect to hazardous materials transportation that—

“(1) approximately 4 billion tons of regulated hazardous materials are transported each year and that approximately 500,000 movements of hazardous materials occur each day, according to the Department of Transportation estimates;

“(2) accidents involving the release of hazardous materials are a serious threat to public health and safety;

“(3) many States and localities have enacted laws and regulations that vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers that attempt to comply with multiple and conflicting registration, permitting, routings, notification, loading, unloading, incidental storage, and other regulatory requirements;

“(4) because of the potential risks to life, property and the environment posed by unin-

tentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials, including loading, unloading, and incidental storage, is necessary and desirable;

“(5) in order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable;

“(6) in order to provide reasonable, adequate, and cost-effective protection from the risks posed by the transportation of hazardous materials, a network of adequately trained State and local emergency response personnel is required;

“(7) the movement of hazardous materials in commerce is necessary and desirable to maintain economic vitality and meet consumer demands, and shall be conducted in a safe and efficient manner; and

“(8) primary authority for the regulation of such transportation should be consolidated in the Department of Transportation to ensure the safe and efficient movement of hazardous materials in commerce.

“(b) PURPOSES.—The purposes of this chapter are—

“(1) to ensure the safe and efficient transportation of hazardous materials in intrastate, interstate, and foreign commerce, including the loading, unloading, and incidental storage of hazardous material;

“(2) to provide the Secretary with preemption authority to achieve uniform regulation of hazardous material transportation, to eliminate inconsistent rules that apply differently from Federal rules, to ensure efficient movement of hazardous materials in commerce, and to promote the national health, welfare, and safety; and

“(3) to provide adequate training for public sector emergency response teams to ensure safe responses to hazardous material transportation accidents and incidents.”.

(b) DEFINITIONS.—Section 5102 is amended by—

(1) by striking paragraph (1) and inserting the following:

“(1) ‘commerce’ means trade or transportation in the jurisdiction of the United States—

“(A) between a place in a State and a place outside of the State;

“(B) that affects trade or transportation between a place in a State and a place outside of the State; or

“(C) on a United States-registered aircraft.”;

(2) by striking paragraphs (3) and (4) and inserting the following:

“(3) ‘hazmat employee’ means an individual who—

“(A) is—

“(i) employed by a hazmat employer,

“(ii) self-employed, or

“(iii) an owner-operator of a motor vehicle; and

“(B) during the course of employment—

“(i) loads, unloads, or handles hazardous material;

“(ii) manufactures, reconditions, or tests containers, drums, or other packagings represented as qualified for use in transporting hazardous material;

“(iii) performs any function pertaining to the offering of hazardous material for transportation;

“(iv) is responsible for the safety of transporting hazardous material; or

“(v) operates a vehicle used to transport hazardous material.

“(4) ‘hazmat employer’ means a person who—

“(A) either—

“(i) is self-employed,

“(ii) is an owner-operator of a motor vehicle, or

“(iii) has at least one employee; and

“(B) performs a function, or uses at least one employee, in connection with—

“(i) transporting hazardous material in commerce;

“(ii) causing hazardous material to be transported in commerce, or

“(iii) manufacturing, reconditioning, or testing containers, drums, or other packagings represented as qualified for use in transporting hazardous material.”;

(3) by striking “title.” in paragraph (7) and inserting “title, except that a freight forwarder is included only if performing a function related to highway transportation”;

(4) by redesignating paragraphs (9) through (13) as paragraphs (12) through (16);

(5) by inserting after paragraph (8) the following:

“(9) ‘out-of-service order’ means a mandate that an aircraft, vessel, motor vehicle, train, other vehicle, or a part of any of these, not be moved until specified conditions have been met.

“(10) ‘package’ or ‘outside package’ means a packaging plus its contents.

“(11) ‘packaging’ means a receptacle and any other components or materials necessary for the receptacle to perform its containment function in conformance with the minimum packaging requirements established by the Secretary of Transportation.”;

and

(6) by striking “or transporting hazardous material to further a commercial enterprise;” in paragraph 12(A), as redesignated by paragraph (4) of this subsection, and inserting a comma and “transporting hazardous material to further a commercial enterprise, or manufacturing, reconditioning, or testing containers, drums, or other packagings represented as qualified for use in transporting hazardous material”.

(c) CLERICAL AMENDMENT.—The chapter analysis of chapter 51 is amended by striking the item relating to section 5101 and inserting the following:

“5101. Findings and purposes”.

SEC. 302. HANDLING CRITERIA REPEAL.

Section 5106 is repealed and the chapter analysis of chapter 51 is amended by striking the item relating to that section.

SEC. 303. HAZMAT EMPLOYEE TRAINING REQUIREMENTS.

Section 5107(f)(2) is amended by striking “and sections 5106, 5108(a)-(g)(1) and (h), and”.

SEC. 304. REGISTRATION.

Section 5108 is amended by—

(1) by striking subsection (b)(1)(C) and inserting the following:

“(C) each State in which the person carries out any of the activities.”;

(2) by striking subsection (c) and inserting the following:

“(c) FILING SCHEDULE.—Each person required to file a registration statement under subsection (a) of this section shall file that statement annually in accordance with regulations issued by the Secretary.”;

(3) by striking “552(f)” in subsection (f) and inserting “552(b)”;

(4) by striking “may” in subsection (g)(1) and inserting “shall”; and

(5) by inserting “or an Indian tribe,” in subsection (i)(2)(B) after “State.”.

SEC. 305. SHIPPING PAPER RETENTION.

Section 5110(e) is amended by striking the first sentence and inserting “After expiration of the requirement in subsection (c) of this section, the person who provided the shipping paper and the carrier required to maintain it under subsection (a) of this section shall retain the paper or an electronic image thereof, for a period of 1 year after the

shipping paper was provided to the carrier, to be accessible through their respective principal places of business."

SEC. 306. UNSATISFACTORY SAFETY RATING.

Section 5113(d) is amended by striking "Secretary, in consultation with the Interstate Commerce Commission," and inserting "Secretary".

SEC. 307. PUBLIC SECTOR TRAINING CURRICULUM.

Section 5115 is amended by—

(1) by striking "DEVELOPMENT AND UPDATING.—Not later than November 16, 1992, in" in subsection (a) and inserting "UPDATING.—In";

(2) by striking "develop and" in the first sentence of subsection (a);

(3) by striking the second sentence of subsection (a);

(4) by striking "developed" in the first sentence of subsection (b);

(5) by inserting "or involving an alternative fuel vehicle" after "material" in subparagraphs (A) and (B) of subsection (b)(1); and

(6) by striking subsection (d) and inserting the following:

"(d) DISTRIBUTION AND PUBLICATION.—With the national response team, the Secretary of Transportation may publish a list of programs that use a course developed under this section for training public sector employees to respond to an accident or incident involving the transportation of hazardous material."

SEC. 308. PLANNING AND TRAINING GRANTS.

Section 5116 is amended by—

(1) by striking "of" in the second sentence of subsection (e) and inserting "received by";

(2) by striking subsection (f) and inserting the following:

"(f) MONITORING AND TECHNICAL ASSISTANCE.—The Secretary of Transportation shall monitor public sector emergency response planning and training for an accident or incident involving hazardous material. Considering the results of the monitoring, the Secretary shall provide technical assistance to a State, political subdivision of a State, or Indian tribe for carrying out emergency response training and planning for an accident or incident involving hazardous material and shall coordinate the assistance using the existing coordinating mechanisms of the National Response Team for Oil and Hazardous Substances and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee."; and

(3) by adding at the end thereof the following:

"(l) SMALL BUSINESSES.—The Secretary may authorize a State or Indian tribe receiving a grant under this section to use up to 25 percent of the amount of the grant to assist small businesses in complying with regulations issued under this chapter."

SEC. 309. SPECIAL PERMITS AND EXCLUSIONS.

(a) Section 5117 is amended by—

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

"§ 5117. Special permits and exclusions";

(2) by striking "exemption" each place it appears and inserting "special permit";

(3) by inserting "authorizing variances" after "special permit" the first place it appears; and

(4) by striking "2" and inserting "4" in subsection (a)(2).

(b) The chapter analysis for chapter 51 is amended by striking the item related to section 5117 and inserting the following:

"5117. Special permits and exclusions".

SEC. 310. ADMINISTRATION.

(a) Section 5121 is amended by striking subsections (a), (b), and (c) and redesignating subsections (d) and (e) as subsections (a) and (b).

(b) Section 5122 is amended by redesignating subsections (a), (b), and (c) as subsections (d), (e), and (f), and by inserting before subsection (d), as redesignated, the following:

"(a) GENERAL AUTHORITY.—To carry out this chapter, the Secretary of Transportation may investigate, make reports, issue subpoenas, conduct hearings, require the production of records and property, take depositions, and conduct research, development, demonstration, and training activities. After notice and an opportunity for a hearing, the Secretary may issue an order requiring compliance with this chapter or a regulation prescribed under this chapter.

"(b) RECORDS, REPORTS, AND INFORMATION.—A person subject to this chapter shall—

"(1) maintain records, make reports, and provide information the Secretary by regulation or order requires; and

"(2) make the records, reports, and information available when the Secretary requests.

"(c) INSPECTION.—

"(1) The Secretary may authorize an officer, employee, or agent to inspect, at a reasonable time and in a reasonable way, records and property related to—

"(A) manufacturing, fabricating, marking, maintaining, reconditioning, repairing, testing, or distributing a packaging or a container for use by a person in transporting hazardous material in commerce; or

"(B) the transportation of hazardous material in commerce.

"(2) An officer, employee, or agent under this subsection shall display proper credentials when requested."

SEC. 311. COOPERATIVE AGREEMENTS.

Section 5121, as amended by section 310(a), is further amended by adding at the end thereof the following:

"(c) AUTHORITY FOR COOPERATIVE AGREEMENTS.—To carry out this chapter, the Secretary may enter into grants, cooperative agreements, and other transactions with a person, agency or instrumentality of the United States, a unit of State or local government, an Indian tribe, a foreign government (in coordination with the State Department), an educational institution, or other entity to further the objectives of this chapter. The objectives of this chapter include the conduct of research, development, demonstration, risk assessment, emergency response planning and training activities."

SEC. 312. ENFORCEMENT.

Section 5122, as amended by section 310(b), is further amended by—

(1) by inserting "inspect," after "may" in the first sentence of subsection (a);

(2) by striking the last sentence of subsection (a) and inserting: "Except as provided in subsection (e) of this section, the Secretary shall provide notice and an opportunity for a hearing prior to issuing an order requiring compliance with this chapter or a regulation, order, special permit, or approval issued under this chapter.";

(3) by redesignating subsections (d), (e) and (f) as subsections (f), (g) and (h), and inserting after subsection (c) the following:

"(d) OTHER AUTHORITY.—

"(1) INSPECTION.—During inspections and investigations, officers, employees, or agents of the Secretary may—

"(A) open and examine the contents of a package offered for, or in, transportation when—

"(i) the package is marked, labeled, certified, placarded, or otherwise represented as containing a hazardous material, or

"(ii) there is an objectively reasonable and articulable belief that the package may contain a hazardous material;

"(B) take a sample, sufficient for analysis, of material marked or represented as a haz-

ardous material or for which there is an objectively reasonable and articulable belief that the material may be a hazardous material, and analyze that material;

"(C) when there is an objectively reasonable and articulable belief that an imminent hazard may exist, prevent the further transportation of the material until the hazardous qualities of that material have been determined; and

"(D) when safety might otherwise be compromised, authorize properly qualified personnel to conduct the examination, sampling, or analysis of a material.

"(2) NOTIFICATION.—No package opened pursuant to this subsection shall continue its transportation until the officer, employee, or agent of the Secretary—

"(A) affixes a label to the package indicating that the package was inspected pursuant to this subsection; and

"(B) notifies the shipper that the package was opened for examination.

"(e) EMERGENCY ORDERS.—

"(1) If, through testing, inspection, investigation, or research carried out under this chapter, the Secretary decides that an unsafe condition or practice, or a combination of them, causes an emergency situation involving a hazard of death, personal injury, or significant harm to the environment, the Secretary may immediately issue or impose restrictions, prohibitions, recalls, or out-of-service orders, without notice or the opportunity for a hearing, that may be necessary to abate the situation.

"(2) The Secretary's action under this subsection must be in a written order describing the condition or practice, or combination of them, that causes the emergency situation; stating the restrictions, prohibitions, recalls, or out-of-service orders being issued or imposed; and prescribing standards and procedures for obtaining relief from the order.

"(3) After taking action under this subsection, the Secretary shall provide an opportunity for review of that action under section 554 of title 5.

"(4) If a petition for review is filed and the review is not completed by the end of the 30-day period beginning on the date the petition was filed, the action will cease to be effective at the end of that period unless the Secretary determines in writing that the emergency situation still exists."

SEC. 313. PENALTIES.

(a) Section 5123(a)(1) is amended by striking the first sentence and inserting the following: "A person that knowingly violates this chapter or a regulation, order, special permit, or approval issued under this chapter is liable to the United States Government for a civil penalty of at least \$250 but not more than \$27,500 for each violation."

(b) Section 5123(c)(2) is amended to read as follows:

"(2) with respect to the violator, the degree of culpability, any good-faith efforts to comply with the applicable requirements, any history of prior violations, any economic benefit resulting from the violation, the ability to pay, and any effect on the ability to continue to do business; and"

(c) Section 5124 is amended to read as follows:

"§ 5124. Criminal penalty

"(a) IN GENERAL.—A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation, order, special permit, or approval issued under this chapter, shall be fined under title 18, imprisoned for not more than 5 years, or both.

"(b) AGGRAVATED VIOLATIONS.—A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation, order, special permit, or approval issued under this chapter, and thereby causing the release of a hazardous material, shall

be fined under title 18, imprisoned for not more than 20 years, or both.”.

SEC. 314. PREEMPTION.

(a) REQUIREMENTS CONTRARY TO PURPOSES OF CHAPTER.—Section 5125(a)(2) is amended by inserting a comma and “the purposes of this chapter,” after “this chapter” the first place it appears.

(b) DEADWOOD.—Section 5125(b)(2) is amended by striking “prescribes after November 16, 1990.” and inserting “prescribes.”.

SEC. 315. JUDICIAL REVIEW.

(a) Chapter 51 is amended by redesignating section 5127 as section 5128, and by inserting after section 5126 the following new section:

“§ 5127. Judicial review

“(a) FILING AND VENUE.—Except as provided in section 20114(c) of this title, a person disclosing a substantial interest in a final order issued, under the authority of section 5122 or 5123 of this title, by the Secretary of Transportation, the Administrators of the Research and Special Programs Administration, the Federal Aviation Administration, or the Federal Highway Administration, or the Commandant of the United States Coast Guard (‘modal Administrator’), with respect to the duties and powers designated to be carried out by the Secretary under this chapter, may apply for review in the United States Court of Appeals for the District of Columbia or in the court of appeals for the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not more than 60 days after the order is issued. The court may allow the petition to be filed after the 60th day only if there are reasonable grounds for not filing by the 60th day.

“(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a) of this section, the clerk of the court immediately shall send a copy of the petition to the Secretary or the modal Administrator, as appropriate. The Secretary or the modal Administrator shall file with the court a record of any proceeding in which the order was issued, as provided in section 2112 of title 28.

“(c) AUTHORITY OF COURT.—When the petition is sent to the Secretary or the modal Administrator, the court has exclusive jurisdiction to affirm, amend, modify, or set aside any part of the order and may order the Secretary or the modal Administrator to conduct further proceedings. After reasonable notice to the Secretary or the modal Administrator, the court may grant interim relief by staying the order or taking other appropriate action when good cause for its action exists. Findings of fact by the Secretary or the modal Administrator, if supported by substantial evidence, are conclusive.

“(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing a final order under this section, the court may consider an objection to a final order of the Secretary or the modal Administrator only if the objection was made in the course of a proceeding or review conducted by the Secretary, the modal Administrator, or an administrative law judge, or if there was a reasonable ground for not making the objection in the proceeding.

“(e) SUPREME COURT REVIEW.—A decision by a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28, United States Code.”.

(b) The chapter analysis for chapter 51 is amended by striking the item related to section 5127 and inserting the following:

“5127. Judicial review.”.

“5128. Authorization of appropriations.”.

SEC. 316. HAZARDOUS MATERIAL TRANSPORTATION REAUTHORIZATION.

(a) IN GENERAL.—Chapter 51, as amended by section 315 of this Act, is amended by re-

designating section 5128 as section 5129 and by inserting after section 5127 the following:

“§ 5128. High risk hazardous material; motor carrier safety study

“(a) STUDY.—The Secretary of Transportation shall conduct a study—

“(1) to determine the safety benefits and administrative efficiency of implementing a Federal permit program for high risk hazardous material carriers;

“(2) to identify and evaluate alternative regulatory methods and procedures that may improve the safety of high risk hazardous material carriers and shippers;

“(3) to examine the safety benefits of increased monitoring of high risk hazardous material carriers, and the costs, benefits, and procedures of existing State permit programs;

“(4) to make such recommendations as may be appropriate for the improvement of uniformity among existing State permit programs; and

“(5) to assess the potential of advanced technologies for improving the assessment of high risk hazardous material carriers’ compliance with motor carrier safety regulations.

“(b) TIMEFRAME.—The Secretary shall begin the study required by subsection (a) within 6 months after the date of enactment of the Intermodal Transportation Safety Act of 1997 and complete it within 30 months.

“(c) REPORT.—The Secretary shall report the findings of the study required by subsection (a), together with such recommendations as may be appropriate, within 36 months after the date of enactment of that Act.”.

(b) SECTION 5109 REGULATIONS TO REFLECT STUDY FINDINGS.—Section 5109(h) is amended by striking “not later than November 16, 1991.” and inserting “based upon the findings of the study required by section 5128(a).”.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 51, as amended by section 315, is amended by striking the item relating to section 5128 and inserting the following:

“5128. High risk hazardous material; motor carrier safety study

“5129. Authorization of appropriations”.

SEC. 317. AUTHORIZATION OF APPROPRIATIONS.

Section 5129, as redesignated, is amended—

(1) by striking subsection (a) and inserting the following:

“(a) GENERAL.—There are authorized to be appropriated to the Secretary of Transportation to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, and 5116) not more than—

“(1) \$15,492,000 for fiscal year 1998;

“(2) \$16,000,000 for fiscal year 1999;

“(3) \$16,500,000 for fiscal year 2000;

“(4) \$17,000,000 for fiscal year 2001;

“(5) \$17,500,000 for fiscal year 2002; and

“(6) \$18,000,000 for fiscal year 2003.”; and

(2) by striking subsections (c) and (d) and inserting the following:

“(c) TRAINING CURRICULUM.—Not more than \$200,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for each of the fiscal years ending September 30, 1999-2003, to carry out section 5115 of this title.

“(d) PLANNING AND TRAINING.—

“(1) Not more than \$2,444,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for the fiscal year ending September 30, 1998, and such sums as may be necessary for fiscal years 1999-2003, to carry out section 5116(a) of this title.

“(2) Not more than \$3,666,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for the fiscal year ending September 30,

1998, and such sums as may be necessary for fiscal years 1999-2003, to carry out section 5116(b) of this title.

“(3) Not more than \$600,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for the fiscal year ending September 30, 1998, and such sums as may be necessary for fiscal years 1999-2003, to carry out section 5116(f) of this title.”.

TITLE IV—COMPREHENSIVE ONE-CALL NOTIFICATION

SEC. 401. FINDINGS.

The Congress finds that—

(1) unintentional damage to underground facilities during excavation is a significant cause of disruptions in telecommunications, water supply, electric power and other vital public services, such as hospital and air traffic control operations, and is a leading cause of natural gas and hazardous liquid pipeline accidents;

(2) excavation that is performed without prior notification to an underground facility operator or with inaccurate marking of such a facility prior to excavation can cause damage that results in fatalities, serious injuries, harm to the environment and disruption of vital services to the public; and

(3) protection of the public and the environment from the consequences of underground facility damage caused by excavations will be enhanced by a coordinated national effort to improve one-call notification programs in each State and the effectiveness and efficiency of one-call notification systems that operate under such programs.

SEC. 402. ESTABLISHMENT OF ONE-CALL NOTIFICATION PROGRAMS.

(a) IN GENERAL.—Subtitle III is amended by adding at the end thereof the following:

“CHAPTER 61.—ONE-CALL NOTIFICATION PROGRAMS

“Sec.

“6101. Purposes

“6102. Definitions

“6103. Minimum standards for State one-call notification programs

“6104. Compliance with minimum standards

“6105. Review of one-call system best practices

“6106. Grants to States

“6107. Authorization of appropriations

“§ 6101. Purposes

“The purposes of this chapter are—

“(1) to enhance public safety;

“(2) to protect the environment;

“(3) to minimize risks to excavators; and

“(4) to prevent disruption of vital public services,

by reducing the incidence of damage to underground facilities during excavation through the adoption and efficient implementation by all States of State one-call notification programs that meet the minimum standards set forth under section 6103.

“§ 6102. Definitions

“For purposes of this chapter—

“(1) ONE-CALL NOTIFICATION SYSTEM.—The term ‘one-call notification system’ means a system operated by an organization that has as one of its purposes to receive notification from excavators of intended excavation in a specified area in order to disseminate such notification to underground facility operators that are members of the system so that such operators can locate and mark their facilities in order to prevent damage to underground facilities in the course of such excavation.

“(2) STATE ONE-CALL NOTIFICATION PROGRAM.—The term ‘State one-call notification program’ means the State statutes, regulations, orders, judicial decisions, and other

elements of law and policy in effect in a State that establish the requirements for the operation of one-call notification systems in such State.

"(3) STATE.—The term 'State' means a State, the District of Columbia, and Puerto Rico.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"§ 6103. Minimum standards for State one-call notification programs

"(a) MINIMUM STANDARDS.—A State one-call notification program shall, at a minimum, provide for—

"(1) appropriate participation by all underground facility operators;

"(2) appropriate participation by all excavators; and

"(3) flexible and effective enforcement under State law with respect to participation in, and use of, one-call notification systems.

"(b) APPROPRIATE PARTICIPATION.—In determining the appropriate extent of participation required for types of underground facilities or excavators under subsection (a), a State shall assess, rank, and take into consideration the risks to the public safety, the environment, excavators, and vital public services associated with—

"(1) damage to types of underground facilities; and

"(2) activities of types of excavators.

"(c) IMPLEMENTATION.—A State one-call notification program also shall, at a minimum, provide for—

"(1) consideration of the ranking of risks under subsection (b) in the enforcement of its provisions;

"(2) a reasonable relationship between the benefits of one-call notification and the cost of implementing and complying with the requirements of the State one-call notification program; and

"(3) voluntary participation where the State determines that a type of underground facility or an activity of a type of excavator poses a de minimis risk to public safety or the environment.

"(d) PENALTIES.—To the extent the State determines appropriate and necessary to achieve the purposes of this chapter, a State one-call notification program shall, at a minimum, provide for—

"(1) administrative or civil penalties commensurate with the seriousness of a violation by an excavator or facility owner of a State one-call notification program;

"(2) increased penalties for parties that repeatedly damage underground facilities because they fail to use one-call notification systems or for parties that repeatedly fail to provide timely and accurate marking after the required call has been made to a one-call notification system;

"(3) reduced or waived penalties for a violation of a requirement of a State one-call notification program that results in, or could result in, damage that is promptly reported by the violator;

"(4) equitable relief; and

"(5) citation of violations.

"§ 6104. Compliance with minimum standards

"(a) REQUIREMENT.—In order to qualify for a grant under section 6106, each State shall, within 2 years after the date of the enactment of the Intermodal Transportation Safety Act of 1997, submit to the Secretary a grant application under subsection (b).

"(b) APPLICATION.—

"(1) Upon application by a State, the Secretary shall review that State's one-call notification program, including the provisions for implementation of the program and the record of compliance and enforcement under the program.

"(2) Based on the review under paragraph (1), the Secretary shall determine whether the State's one-call notification program meets the minimum standards for such a program set forth in section 6103 in order to qualify for a grant under section 6106.

"(3) In order to expedite compliance under this section, the Secretary may consult with the State as to whether an existing State one-call notification program, a specific modification thereof, or a proposed State program would result in a positive determination under paragraph (2).

"(4) The Secretary shall prescribe the form of, and manner of filing, an application under this section that shall provide sufficient information about a State's one-call notification program for the Secretary to evaluate its overall effectiveness. Such information may include the nature and reasons for exceptions from required participation, the types of enforcement available, and such other information as the Secretary deems necessary.

"(5) The application of a State under paragraph (1) and the record of actions of the Secretary under this section shall be available to the public.

"(c) ALTERNATIVE PROGRAM.—A State may maintain an alternative one-call notification program if that program provides protection for public safety, the environment, or excavators that is equivalent to, or greater than, protection under a program that meets the minimum standards set forth in section 6103.

"(d) REPORT.—Within 3 years after the date of the enactment of the Intermodal Transportation Safety Act of 1997, the Secretary shall begin to include the following information in reports submitted under section 60124 of this title—

"(1) a description of the extent to which each State has adopted and implemented the minimum Federal standards under section 6103 or maintains an alternative program under subsection (c);

"(2) an analysis by the Secretary of the overall effectiveness of the State's one-call notification program and the one-call notification systems operating under such program in achieving the purposes of this chapter;

"(3) the impact of the State's decisions on the extent of required participation in one-call notification systems on prevention of damage to underground facilities; and

"(4) areas where improvements are needed in one-call notification systems in operation in the State.

The report shall also include any recommendations the Secretary determines appropriate. If the Secretary determines that the purposes of this chapter have been substantially achieved, no further report under this section shall be required.

"§ 6105. Review of one-call system best practices

"(a) STUDY OF EXISTING ONE-CALL SYSTEMS.—Except as provided in subsection (d), the Secretary, in consultation with other appropriate Federal agencies, State agencies, one-call notification system operators, underground facility operators, excavators, and other interested parties, shall undertake a study of damage prevention practices associated with existing one-call notification systems.

"(b) PURPOSE OF STUDY OF DAMAGE PREVENTION PRACTICES.—The purpose of the study is to assemble information in order to determine which existing one-call notification systems practices appear to be the most effective in preventing damage to underground facilities and in protecting the public, the environment, excavators, and public service disruption. As part of the study, the Secretary shall at a minimum consider—

"(1) the methods used by one-call notification systems and others to encourage participation by excavators and owners of underground facilities;

"(2) the methods by which one-call notification systems promote awareness of their programs, including use of public service announcements and educational materials and programs;

"(3) the methods by which one-call notification systems receive and distribute information from excavators and underground facility owners;

"(4) the use of any performance and service standards to verify the effectiveness of a one-call notification system;

"(5) the effectiveness and accuracy of mapping used by one-call notification systems;

"(6) the relationship between one-call notification systems and preventing intentional damage to underground facilities;

"(7) how one-call notification systems address the need for rapid response to situations where the need to excavate is urgent;

"(8) the extent to which accidents occur due to errors in marking of underground facilities, untimely marking or errors in the excavation process after a one-call notification system has been notified of an excavation;

"(9) the extent to which personnel engaged in marking underground facilities may be endangered;

"(10) the characteristics of damage prevention programs the Secretary believes could be relevant to the effectiveness of State one-call notification programs; and

"(11) the effectiveness of penalties and enforcement activities under State one-call notification programs in obtaining compliance with program requirements.

"(c) REPORT.—Within 1 year after the date of the enactment of the Intermodal Transportation Safety Act of 1997, the Secretary shall publish a report identifying those practices of one-call notification systems that are the most and least successful in—

"(1) preventing damage to underground facilities; and

"(2) providing effective and efficient service to excavators and underground facility operators.

The Secretary shall encourage States and operators of one-call notification programs to adopt and implement the most successful practices identified in the report.

"(d) SECRETARIAL DISCRETION.—Prior to undertaking the study described in subsection (a), the Secretary shall determine whether timely information described in subsection (b) is readily available. If the Secretary determines that such information is readily available, the Secretary is not required to carry out the study.

"§ 6106. Grants to States

"(a) IN GENERAL.—The Secretary may make a grant of financial assistance to a State that qualifies under section 6104(b) to assist in improving—

"(1) the overall quality and effectiveness of one-call notification systems in the State;

"(2) communications systems linking one-call notification systems;

"(3) location capabilities, including training personnel and developing and using location technology;

"(4) record retention and recording capabilities for one-call notification systems;

"(5) public information and education;

"(6) participation in one-call notification systems; or

"(7) compliance and enforcement under the State one-call notification program.

"(b) STATE ACTION TAKEN INTO ACCOUNT.—In making grants under this section the Secretary shall take into consideration the commitment of each State to improving its

State one-call notification program, including legislative and regulatory actions taken by the State after the date of enactment of the Intermodal Transportation Safety Act of 1997.

“(c) FUNDING FOR ONE-CALL NOTIFICATION SYSTEMS.—A State may provide funds received under this section directly to any one-call notification system in such State that substantially adopts the best practices identified under section 6105.

“§ 6107. Authorization of appropriations

“(a) FOR GRANTS TO STATES.—There are authorized to be appropriated to the Secretary in fiscal year 1999 no more than \$1,000,000 and in fiscal year 2000 no more than \$5,000,000, to be available until expended, to provide grants to States under section 6106.

“(b) FOR ADMINISTRATION.—There are authorized to be appropriated to the Secretary such sums as may be necessary during fiscal years 1998, 1999, and 2000 to carry out sections 6103, 6104, and 6105.

“(c) GENERAL REVENUE FUNDING.—Any sums appropriated under this section shall be derived from general revenues and may not be derived from amounts collected under section 60301 of this title.”

(b) CONFORMING AMENDMENTS.—

(1) The analysis of chapters for subtitle III is amended by adding at the end thereof the following:

“CHAPTER 61—ONE-CALL NOTIFICATION PROGRAM”

(2) Chapter 601 of title 49, United States Code, is amended

(A) by striking “sections 60114 and” in section 60105(a) of that chapter and inserting “section”;

(B) by striking section 60114 and the item relating to that section in the table of sections for that chapter;

(C) by striking “60114(c), 60118(a),” in section 60122(a)(1) of that chapter and inserting “60118(a).”;

(D) by striking “60114(c) or” in section 60123(a) of that chapter;

(E) by striking “sections 60107 and 60114(b)” in subsections (a) and (b) of section 60125 and inserting “section 60107” in each such subsection; and

(F) by striking subsection (d) of section 60125, and redesignating subsections (e) and (f) of that section as subsections (d) and (e).

TITLE V—MOTOR CARRIER SAFETY

SEC. 501. STATEMENT OF PURPOSE.

Chapter 311 is amended—

(1) by inserting before section 31101 the following:

“§ 31100. Purpose

“The purposes of this subchapter are—

“(1) to improve commercial motor vehicle and driver safety;

“(2) to facilitate efforts by the Secretary, States, and other political jurisdictions, working in partnership, to focus their resources on strategic safety investments;

“(3) to increase administrative flexibility;

“(4) to strengthen enforcement activities;

“(5) to invest in activities related to areas of the greatest crash reduction;

“(6) to identify high risk carriers and drivers; and

“(7) to improve information and analysis systems.”; and

(2) by inserting before the item relating to section 31101 in the chapter analysis for chapter 311 the following:

“§31100. Purposes”.

SEC. 502. GRANTS TO STATES.

(a) PERFORMANCE-BASED GRANTS.—Section 31102 is amended—

(1) by inserting “improving motor carrier safety and” in subsection (a) after “programs for”; and

(2) by striking “adopt and assume responsibility for enforcing” in the first sentence of paragraph (b)(1) and inserting “assume responsibility for improving motor carrier safety and to adopt and enforce”.

(b) HAZARDOUS MATERIALS.—Section 31102 is amended—

(1) by inserting a comma and “hazardous materials transportation safety,” after “commercial motor vehicle safety” in subsection (a); and

(2) by inserting a comma and “hazardous materials transportation safety,” in the first sentence of subsection (b) after “commercial motor vehicle safety”.

(c) CONTENTS OF STATE PLANS.—Section 31102(b)(1) is amended—

(1) by redesignating subparagraphs (A) through (Q) as subparagraphs (B) through (R), respectively;

(2) by inserting before subparagraph (B), as redesignated, the following:

“(A) implements performance-based activities by fiscal year 2000;”

(3) by inserting “(1)” in subparagraph (K), as redesignated, after “(c)”;

(4) by striking subparagraphs (L) and (M), as redesignated, and inserting the following:

“(L) ensures consistent, effective, and reasonable sanctions;

“(M) ensures that the State agency will coordinate the plan, data collection, and information systems with the State highway safety programs under title 23;”;

(5) by striking “activities—” in subparagraph (P), as redesignated, and inserting “activities in support of national priorities and performance goals including—”;

(6) by striking “to remove” in clause (i) of subparagraph (P), as redesignated, and inserting “activities aimed at removing”; and

(7) by striking “to provide” in clause (ii) of subparagraph (P), as redesignated, and inserting “activities aimed at providing”.

SEC. 503. FEDERAL SHARE.

Section 31103 is amended—

(1) by inserting before “The Secretary of Transportation” the following:

“(a) COMMERCIAL MOTOR VEHICLE SAFETY PROGRAMS AND ENFORCEMENT.—”;

(2) by inserting “improve commercial motor vehicle safety and” in the first sentence before “enforce”; and

(3) by adding at the end the following:

“(b) OTHER ACTIVITIES.—The Secretary may reimburse State agencies, local governments, or other persons up to 100 percent for those activities identified in 31104(f)(2).”.

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 31104(a) is amended to read as follows:

“(a) GENERAL.—Subject to section 9503(c)(1) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(c)(1)), there are available from the Highway Trust Fund (except the Mass Transit Account) for the Secretary of Transportation to incur obligations to carry out section 31102 of this title, not more than—

“(1) \$80,000,000 for the fiscal year ending September 30, 1998;

“(2) \$82,000,000 for the fiscal year ending September 30, 1999;

“(3) \$84,000,000 for the fiscal year ending September 30, 2000;

“(4) \$86,000,000 for the fiscal year ending September 30, 2001;

“(5) \$88,000,000 for the fiscal year ending September 30, 2002; and

“(6) \$90,000,000 for the fiscal year ending September 30, 2003.”.

(b) AVAILABILITY AND REALLOCATION.—Section 31104(b)(2) is amended to read as follows:

“(2) Amounts made available under section 4002(e)(1) and (2) of the Intermodal Surface Transportation Efficiency Act of 1991 before October 1, 1996, that are not obligated on Oc-

tober 1, 1997, are available for obligation under paragraph (1) of this subsection.”.

(c) ALLOCATION CRITERIA.—Section 31104(f) is amended to read as follows:

“(f) ALLOCATION CRITERIA AND ELIGIBILITY.—

“(1) On October 1 of each fiscal year or as soon after that date as practicable, the Secretary, after making the deduction described in subsection (e) of this section, shall allocate, under criteria the Secretary prescribes through regulation, the amounts available for that fiscal year among the States with plans approved under section 31102 of this title.

“(2) The Secretary may designate—

“(A) no less than 5 percent of such amounts for activities and projects of national priority for the improvement of commercial motor vehicle safety; and

“(B) no less than 5 percent of such amounts to reimburse States for border commercial motor vehicle safety programs and enforcement activities and projects. These amounts shall be allocated by the Secretary to State agencies and local governments that use trained and qualified officers and employees in coordination with State motor vehicle safety agencies.”.

(d) OTHER AMENDMENTS.—

(1) Section 31104 is amended by striking subsection (g) and redesignating subsection (h) as subsection (g).

(2) Section 31104 is amended by striking subsection (i) and redesignating subsection (j) as subsection (h).

SEC. 505. INFORMATION SYSTEMS AND STRATEGIC SAFETY INITIATIVES.

Section 31106 is amended to read as follows:

“§ 31106. Information Systems and Strategic Safety Initiatives.

“(a) INFORMATION SYSTEMS.—

“(1) IN GENERAL.—The Secretary is authorized to establish motor carrier information systems and data analysis programs to support motor carrier regulatory and enforcement activities required under this title. In cooperation with the States, the information systems shall be coordinated into a network providing identification of motor carriers and drivers, registration and licensing tracking, and motor carrier and driver safety performance. The Secretary shall develop and maintain data analysis capacity and programs to provide the means to develop strategies to address safety problems and to use data analysis to measure the effectiveness of these strategies and related programs; to determine the cost effectiveness of State and Federal safety compliance, enforcement programs, and other countermeasures; to evaluate the safety fitness of motor carriers and drivers; to identify and collect necessary data; and to adapt, improve, and incorporate other information and information systems as deemed appropriate by the Secretary.

“(2) PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT—

“(A) The Secretary shall include, as part of the motor carrier safety information network system of the Department of Transportation, an information system, to be called the Performance and Registration Information Systems Management, to serve as a clearinghouse and repository of information related to State registration and licensing of commercial motor vehicles and the safety system of the commercial motor vehicle registrants or the motor carriers operating the vehicles. The Secretary may include in the system information on the safety fitness of each of the motor carriers and registrants and other information the Secretary considers appropriate, including information on vehicle, driver, and motor carrier safety performance.

“(B) The Secretary shall prescribe technical and operational standards to ensure—

"(i) uniform, timely and accurate information collection and reporting by the States necessary to carry out this system;

"(ii) uniform State and Federal procedures and policies necessary to operate the Commercial Vehicle Information System; and

"(iii) the availability and reliability of the information to the States and the Secretary from the information system.

"(C) The system shall link the Federal motor carrier safety systems with State driver and commercial vehicle registration and licensing systems, and shall be designed—

"(i) to enable a State, when issuing license plates or throughout the registration period for a commercial motor vehicle, to determine, through the use of the information system, the safety fitness of the registrant or motor carrier;

"(ii) to allow a State to decide, in cooperation with the Secretary, the types of sanctions that may be imposed on the registrant or motor carrier, or the types of conditions or limitations that may be imposed on the operations of the registrant or motor carrier that will ensure the safety fitness of the registrant or motor carrier;

"(iii) to monitor the safety fitness of the registrant or motor carrier during the registration period; and

"(iv) to require the State, as a condition of participation in the system, to implement uniform policies, procedures, and standards, and to possess or seek authority to impose commercial motor vehicle registration sanctions on the basis of a Federal safety fitness determination.

"(D) Of the amounts available for expenditure under this section, up to 50 percent in each of fiscal years 1998, 1999, 2000, 2001, 2002, and 2003 may be made available to carry out paragraph (a)(2) of this section. The Secretary may authorize the operation of the information system by contract, through an agreement with one or more States, or by designating, after consultation with the States, a third party that represents the interests of the States. Of the amounts made available to carry out subsection (a)(2) of this section, the Secretary is encouraged to direct no less than 80 percent to States that have not previously received financial assistance to develop or implement the Performance and Registration Information Systems Management system.

"(b) **COMMERCIAL MOTOR VEHICLE DRIVER SAFETY PROGRAM.**—The Secretary is authorized to establish a program focusing on improving commercial motor vehicle driver safety. The objectives of the program shall include—

"(1) enhancing the exchange of driver licensing information among the States and among the States, the Federal Government, and foreign countries;

"(2) providing information to the judicial system on the commercial motor vehicle driver licensing program; and

"(3) evaluating any aspect of driver performance and safety as deemed appropriate by the Secretary.

"(c) **COOPERATIVE AGREEMENTS, GRANTS, AND CONTRACTS.**—The Secretary may carry out this section either independently or in cooperation with other Federal departments, agencies, and instrumentalities, or by making grants to and entering into contracts and cooperative agreements with States, localities, associations, institutions, corporations (profit or nonprofit) or other persons."

SEC. 506. IMPROVED FLOW OF DRIVER HISTORY PILOT PROGRAM.

The Secretary of Transportation shall carry out a pilot program in cooperation with one or more States to improve upon the timely exchange of pertinent driver perform-

ance and safety records data. The program shall—

(1) determine to what extent driver performance records data, including relevant fines, penalties, and failures to appear for a hearing or trial, should be included as part of any information systems under the Department of Transportation's oversight;

(2) assess the feasibility, costs, safety impact, and benefits of record exchanges; and

(3) assess methods for the efficient exchange of driver safety data available from existing State information systems and sources.

SEC. 507. MOTOR CARRIER AND DRIVER SAFETY RESEARCH.

Of the funds made available to carry out programs established by the amendments made by title II of the Intermodal Surface Transportation Efficiency Act of 1997, no less than \$10,000,000 shall be made available for each of fiscal years 1998, 1999, 2000, 2001, 2002, and 2003 for activities designed to advance commercial motor vehicle and driver safety. Any obligation, contract, cooperative agreement, or support granted under this section in excess of \$100,000 shall be awarded on a competitive basis. The Secretary shall submit annually a report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure on the research activities carried out under this section, including the amount, purpose, recipient and nature of each contract, cooperative agreement or award."

SEC. 508. AUTHORIZATION OF APPROPRIATIONS.

Section 31107 is amended to read as follows:

"§31107. Authorization of appropriations for information systems and strategic safety initiatives.

"There shall be available from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary to incur obligations to carry out section 31106 of this title the sum of \$10,000,000 for each of the fiscal years 1998, 1999, 2000, 2001, 2002, and 2003. The amounts made available under this subsection shall remain available until expended."

SEC. 509. CONFORMING AMENDMENTS.

The chapter analysis for chapter 311 is amended—

(1) by striking the heading for subchapter I and inserting the following:

"Subchapter I—State Grants and Other Commercial Motor Vehicle Programs"

and

(2) by striking the items relating to sections 31106 and 31107 and inserting the following:

"31106. Information systems and strategic safety initiatives

"31107. Authorization of appropriations for information systems and strategic safety initiatives"

SEC. 510. AUTOMOBILE TRANSPORTER DEFINED.

Section 31111(a) is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2), as redesignated, the following:

"(1) 'automobile transporter' means any vehicle combination designed and used specifically for the transport of assembled highway vehicles, including truck camper units."

SEC. 511. REPEAL OF REVIEW PANEL; REVIEW PROCEDURE.

(a) **REPEAL.**—Subchapter III of chapter 311 is amended—

(1) by striking sections 31134 and 31140; and

(2) by striking the items relating to sections 31134 and 31140 in the chapter analysis for that chapter.

(b) **REVIEW PROCEDURE.**—

(1) **IN GENERAL.**—Section 31141 is amended—

(A) by striking subsection (b) and redesignating subsections (c), (d), (e), (f), (g), and (h) as subsections (b), (c), (d), (e), (f), and (g), respectively;

(B) by striking so much of subsection (b), as redesignated, as precedes paragraph (2) and inserting the following:

"(b) **REVIEW AND DECISIONS BY THE SECRETARY.**—

"(1) The Secretary shall review the laws and regulations on commercial motor vehicle safety in effect in each State, and decide—

"(A) whether the State law or regulation—

"(i) has the same effect as a regulation prescribed by the Secretary under section 31136 of this title;

"(ii) is less stringent than that regulation; or

"(iii) is additional to or more stringent than that regulation; and

"(B) for each State law or regulation which is additional to or more stringent than the regulation prescribed by the Secretary, whether—

"(i) the State law or regulation has no safety benefit;

"(ii) the State law or regulation is incompatible with the regulation prescribed by the Secretary under section 31136 of this title; or

"(iii) enforcement of the State law or regulation would cause an unreasonable burden on interstate commerce."

(C) by striking paragraph (5) of subsection (b)(5), as redesignated, and inserting the following:

"(5) In deciding under paragraph (4) of this subsection whether a State law or regulation will cause an unreasonable burden on interstate commerce, the Secretary may consider the effect on interstate commerce of implementation of all similar laws and regulations of other States."

(D) by striking subsections (d) and (e), as redesignated, and inserting the following:

"(d) **WRITTEN NOTICE OF DECISIONS.**—The Secretary shall give written notice of the decision under subsection (b) of this section to the State concerned;" and

(E) by redesignating subsections (f) and (g), as redesignated, as subsections (e) and (f), respectively.

(2) **CONFORMING CHANGES.**—

(A) The caption of section 31141 of such title is amended to read as follows:

"§ 31141. Preemption of State laws and regulations".

(B) The chapter analysis of chapter 311 of such title is amended by striking the item relating to section 31141 and inserting the following:

"31141. Preemption of State laws and regulations".

(d) **INSPECTION OF VEHICLES.**—

(1) Section 31142 is amended—

(A) by striking "part 393 of title 49, Code of Federal Regulations" in subsection (a) and inserting "regulations issued pursuant to section 31135 of this title"; and

(B) by striking subsection (c)(1)(C) and inserting the following:

"(C) prevent a State from participating in the activities of a voluntary group of States enforcing a program for inspection of commercial motor vehicles; or"

(2) Subchapter IV of chapter 311 is amended—

(A) by striking sections 31161 and 31162; and

(B) by striking the items relating to sections 31161 and 31162 in the chapter analysis for that chapter.

(3) Section 31102(b)(1) is amended—

(A) by striking "and" at the end of subparagraph (P);

(B) by striking "thereunder." in subparagraph (Q) and inserting "thereunder; and"; and

(C) by adding at the end thereof the following:

"(R) provides that the State will establish a program (i) to ensure the proper and timely correction of commercial motor vehicle safety violations noted during an inspection carried out with funds authorized under section 31104 of this title; and (ii) to ensure that information is exchanged among the States in a timely manner."

(e) SAFETY FITNESS OF OWNERS AND OPERATORS.—Section 31144 is amended to read as follows:

"§ 31142. Safety fitness of owners and operators"

"(a) PROCEDURE.—The Secretary of Transportation shall maintain in regulation a procedure for determining the safety fitness of owners and operators of commercial motor vehicles, including persons seeking new or additional operating authority as motor carriers under section 13902 of this title. The procedure shall include—

"(1) specific initial and continuing requirements to be met by the owners, operators, and other persons to demonstrate safety fitness;

"(2) a means of deciding whether the owners, operators, or other persons meet the safety requirements under paragraph (1) of this subsection; and

"(3) specific time deadlines for action by the Secretary in making fitness decisions.

"(b) PROHIBITED TRANSPORTATION.—Except as provided in sections 521(b)(5)(A) and 5113 of this title, a motor carrier that fails to meet the safety fitness requirements established under subsection (a) of this section may not operate in interstate commerce beginning on the 61st day after the date of the determination by the Secretary that the motor carrier fails to meet the safety fitness requirements and until the motor carrier meets the safety fitness requirements. The Secretary may, for good cause shown, provide a carrier with up to an additional 60 days to meet the safety fitness requirements.

"(c) RATING REVIEW.—The Secretary shall review the factors that resulted in a motor carrier failing to meet the safety fitness requirements not later than 45 days after the motor carrier requests a review.

"(d) GOVERNMENT USE PROHIBITED.—A department, agency, or instrumentality of the United States Government may not use a motor carrier that does not meet the safety fitness requirements.

"(e) PUBLIC AVAILABILITY; UPDATING OF FITNESS DETERMINATIONS.—The Secretary shall amend the motor carrier safety regulations in subchapter B of chapter III of title 49, Code of Federal Regulations, to establish a system to make readily available to the public, and to update periodically, the safety fitness determinations of motor carriers made by the Secretary.

"(f) PENALTIES.—The Secretary shall prescribe regulations setting penalties for violations of this section consistent with section 521 of this title."

(f) SAFETY FITNESS OF PASSENGER AND HAZARDOUS MATERIAL CARRIERS.—

(1) IN GENERAL.—Section 5113 is amended—

(A) by striking subsection (a) and inserting the following:

"(a) PROHIBITED TRANSPORTATION.—

"(1) A motor carrier that fails to meet the safety fitness requirements established under subsection 31144(a) of this title may not operate a commercial motor vehicle (as defined in section 31132 of this title)—

"(A) to transport hazardous material for which placarding of a motor vehicle is required under regulations prescribed under this chapter; or

"(B) to transport more than 15 individuals.

"(2) The prohibition in paragraph (1) of this subsection applies beginning on the 46th day after the date on which the Secretary determines that a motor carrier fails to meet the safety fitness requirements and applies until the motor carrier meets the safety fitness requirements."

(B) by striking "RATING" in the caption of subsection (b) and inserting "FITNESS";

(C) by striking "receiving an unsatisfactory rating" in subsection (b) and inserting "failing to meet the safety fitness requirements";

(D) by striking "has an unsatisfactory rating from the Secretary" in subsection (c) and inserting "failed to meet the safety fitness requirements"; and

(E) by striking "RATINGS" in the caption of subsection (d) and inserting "FITNESS DETERMINATIONS";

(F) by striking ", in consultation with the Interstate Commerce Commission," in subsection (d); and

(G) by striking "ratings of motor carriers that have unsatisfactory ratings from" in subsection (d) and inserting "fitness determinations of motor carriers made by".

(2) CONFORMING AMENDMENTS.—

(A) The caption of section 5113 of such chapter is amended to read as follows:

"§ 5113. Safety fitness of passenger and hazardous material carriers".

(B) The chapter analysis for such chapter is amended by striking the item relating to section 5113 and inserting the following:

"5113. Safety fitness of passenger and hazardous material carriers".

(g) DEFINITIONS.—

(1) Section 31101(1) is amended—

(A) by inserting "or gross vehicle weight, whichever is greater," after "rating" in subparagraph (A);

(ii) by striking "10,000" and inserting "10,001";

(B) by striking subparagraph (B) and inserting the following:

"(B) is designed or used to transport passengers for compensation, but does not include a vehicle providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places;"

(C) by inserting "and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103" after "title" in subparagraph (C).

(2) Section 31132 is amended—

(A) by inserting "or gross vehicle weight, whichever is greater," after "rating" in paragraph (1)(A); and

(B) by adding at the end of paragraph (3) the following:

"For purposes of this paragraph, the term 'business affecting interstate commerce' means a business employing a commercial motor vehicle in interstate commerce and includes all operations of the business in intrastate commerce which use vehicles otherwise defined as commercial motor vehicles under paragraph (1) of this section."

(h) EMPLOYEE PROTECTIONS.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation, in conjunction with the Secretary of Labor, shall report to the United States Senate Committee on Commerce, Science, and Transportation and the United States House of Representatives Committee on Transportation and Infrastructure on the effectiveness of existing statutory employee protections provided for under section 31105 of title 49, United States Code. The report shall include recommendations to address any statutory changes as may be necessary to strengthen the enforcement of such employee protection provisions.

(i) INSPECTIONS AND REPORTS.—

(1) GENERAL POWERS OF THE SECRETARY.—Section 31133(a)(1) is amended by inserting "and make contracts for" after "conduct".

(2) REPORTS AND RECORDS.—Section 504(c) is amended by inserting "(and, in the case of a motor carrier, a contractor)" before the second comma.

SEC. 512. COMMERCIAL MOTOR VEHICLE OPERATORS.

(a) REPEAL OF OBSOLETE GRANT PROGRAMS.—Chapter 313 is amended—

(1) by striking sections 31312 and 31313; and

(2) by striking the items relating to sections 31312 and 31313 in the chapter analysis for that chapter.

(b) COMMERCIAL DRIVER'S LICENSE REQUIREMENT.—

(1) IN GENERAL.—Section 31302 is amended to read as follows:

"§ 31302. Commercial driver's license requirement"

"No individual shall operate a commercial motor vehicle without a commercial driver's license issued according to section 31308 of this title."

(2) CONFORMING AMENDMENTS.—

(A) The chapter analysis for that chapter is amended by striking the item relating to section 31302 and inserting the following:

"31302. Commercial driver's license requirement".

(B) Section 31305(a) is amended by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively, and by inserting after paragraph (1) the following:

"(2) may establish performance based testing and licensing standards that more accurately measure and reflect an individual's knowledge and skills as an operator;"

(c) COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM.—Section 31309 is amended—

(1) by striking "make an agreement under subsection (b) of this section for the operation of, or establish under subsection (c) of this section," in subsection (a) and inserting "maintain";

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

(3) by striking "Not later than December 31, 1990, the" in paragraph (2) of subsection (b), as redesignated, and inserting "The"; and

(4) by inserting after the caption of subsection (c), as redesignated, the following: "Information about a driver in the information system may be made available under the following circumstances:"; and

(5) by starting a new paragraph with "(1) On request" and indenting the paragraph 2 ems from the left-hand margin.

(d) REQUIREMENTS FOR STATE PARTICIPATION.—Section 31311(a) is amended—

(1) by striking "31310(b)-(e)" in paragraph (15) and inserting "31310(b)-(e), and (g)(1)(A) and (2)";

(2) by striking paragraph (17); and

(3) by redesignating paragraph (18) as paragraph (17).

(e) WITHHOLDING AMOUNTS FOR STATE NON-COMPLIANCE.—Section 31314 is amended—

(1) by striking ", (2), (5), and (6)" and inserting "(3), and (5)"; and

(2) by striking "1992" in subsections (a) and (b) and inserting "1995";

(3) by striking paragraph (1) of subsection (c);

(4) by striking "(2)" in subsection (c)(2);

(5) by striking subsection (d); and

(6) by redesignating subsection (e) as subsection (d).

(f) COMMERCIAL MOTOR VEHICLE DEFINED.—Section 31301 is amended—

(1) by inserting "or gross vehicle weight, whichever is greater," after "rating" each place it appears in paragraph (4)(A); and

(2) by inserting "is" in paragraph (4)(C)(ii) before "transporting" each place it appears and before "not otherwise".

(g) SAFETY PERFORMANCE HISTORY OF NEW DRIVERS; LIMITATION ON LIABILITY.—

(1) IN GENERAL.—Chapter 5 is amended by adding at the end thereof the following:

"§ 508. Safety performance history of new drivers; limitation on liability"

"(a) LIMITATION ON LIABILITY.—No action or proceeding for defamation, invasion of privacy, or interference with a contract that is based on the furnishing or use of safety performance records in accordance with regulations issued by the Secretary may be brought against—

"(1) a motor carrier requesting the safety performance records of an individual under consideration for employment as a commercial motor vehicle driver as required by and in accordance with regulations issued by the Secretary;

"(2) a person who has complied with such a request; or

"(3) the agents or insurers of a person described in paragraph (1) or (2) of this subsection.

"(b) RESTRICTIONS.—

"(1) Subsection (a) does not apply unless—

"(A) the motor carrier requesting the safety performance records at issue, the person complying with such a request, and their agents have taken all precautions reasonably necessary to ensure the accuracy of the records and have fully complied with the regulations issued by the Secretary in using and furnishing the records, including the requirement that the individual who is the subject of the records be afforded a reasonable opportunity to review and comment on the records;

"(B) the motor carrier requesting the safety performance records, the person complying with such a request, their agents, and their insurers, have taken all precautions reasonably necessary to protect the records from disclosure to any person, except for their insurers, not directly involved in forwarding the records or deciding whether to hire that individual; and

"(C) the motor carrier requesting the safety performance records has used those records only to assess the safety performance of the individual who is the subject of those records in deciding whether to hire that individual.

"(2) Subsection (a) does not apply to persons who knowingly furnish false information.

"(c) PREEMPTION OF STATE AND LOCAL LAW.—No State or political subdivision thereof may enact, prescribe, issue, continue in effect, or enforce any law (including any regulation, standard, or other provision having the force and effect of law) that prohibits, penalizes, or imposes liability for furnishing or using safety performance records in accordance with regulations issued by the Secretary. Notwithstanding any provision of law, written authorization shall not be required to obtain information on the motor vehicle driving record of an individual under consideration for employment with a motor carrier."

(2) CONFORMING AMENDMENT.—The chapter analysis for that chapter is amended by inserting after the item relating to section 507 the following:

"508. Safety performance history of new drivers; limitation on liability".

SEC. 515. PENALTIES.

(a) NOTIFICATION OF VIOLATIONS AND ENFORCEMENT PROCEDURES.—Section 521(b)(1) is amended—

(1) by inserting: "with the exception of reporting and recordkeeping violations," in the first sentence of subparagraph (A) after "under any of those provisions,";

(2) by striking "fix a reasonable time for abatement of the violation," in the third sentence of subparagraph (A);

(3) by striking "(A)" in subparagraph (A); and

(4) by striking subparagraph (B).

(b) CIVIL PENALTIES.—Section 521(b)(2) is amended—

(1) by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act which is a violation of regulations issued by the Secretary under subchapter III of chapter 311 (except sections 31137 and 31138) or section 31502 of this title shall be liable to the United States for a civil penalty in an amount not to exceed \$10,000 for each offense. Notwithstanding any other provision of this section (except subparagraph (C)), no civil penalty shall be assessed under this section against an employee for a violation in an amount exceeding \$2,500.";

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(3) by inserting after subparagraph (A) the following:

"(B) RECORDKEEPING AND REPORTING VIOLATIONS.—

"(i) A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title or under any regulation issued by the Secretary pursuant to subchapter III of chapter 311 (except sections 31137 and 31138) or section 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person, who—

"(I) does not make that report;

"(II) does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered; or

"(III) does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary,

shall be liable to the United States for a civil penalty in an amount not to exceed \$500 for each offense, and each day of the violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed \$5,000.

"(ii) Any such person, or an officer, agent, or employee of that person, who—

"(I) knowingly falsifies, destroys, mutilates, or changes a required report or record;

"(II) knowingly files a false report with the Secretary;

"(III) knowingly makes or causes or permits to be made a false or incomplete entry in that record about an operation or business fact or transaction; or

"(IV) knowingly makes, prepares, or preserves a record in violation of a regulation or order of the Secretary,

shall be liable to the United States for a civil penalty in an amount not to exceed \$5,000 for each violation, provided that any such action can be shown to have misrepresented a fact that constitutes a violation other than a reporting or recordkeeping violation."

SEC. 514. INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT.

Chapter 317 is amended—

(1) by striking sections 31702, 31703, and 31708; and

(2) by striking the items relating to sections 31702, 31703, and 31708 in the chapter analysis for that chapter.

SEC. 515. STUDY OF ADEQUACY OF PARKING FACILITIES.

The Secretary shall conduct studies to determine the location and quantity of parking facilities at commercial truck stops and travel plazas and public rest areas that could be used by motor carriers to comply with Federal hours-of-service rules. Each study shall include an inventory of current facilities serving corridors of the National Highway System, analyze where specific shortages exist or are projected to exist, and propose a specific plan to reduce the shortages. The studies may be carried out in cooperation with research entities representing the motor carrier and travel plaza industry.

SEC. 516. NATIONAL MINIMUM DRINKING AGE—TECHNICAL CORRECTIONS.

Section 158 of title 23, United States Code, is amended—

(1) by striking "104(b)(2), 104(b)(5), and 104(b)(6)" each place it appears in subsection (a) and inserting "104(b)(3), and 104(b)(5)(B)"; and

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

"(b) AVAILABILITY OF WITHHELD FUNDS.—No funds withheld under this section from apportionment to any State after September 31, 1988, shall be available for apportionment to such State."

SEC. 517. APPLICATION OF REGULATIONS.

(a) APPLICATION OF REGULATIONS TO CERTAIN COMMERCIAL MOTOR VEHICLES.—Section 31135 as redesignated, is amended by adding at the end thereof the following:

"(g) APPLICATION TO CERTAIN VEHICLES.—Effective 6 months after the date of enactment of the Intermodal Transportation Safety Act of 1997, regulations prescribed under this section shall apply to operators of commercial motor vehicles described in section 31132(1)(B) to the extent that those regulations did not apply to those operators before the day that is 6 months after such date of enactment."

(b) DEFINITION.—Section 31301(4)(B) is amended to read as follows:

"(B) is designed or used to transport—

"(i) passengers for compensation, but does not include a vehicle providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places; or

"(ii) more than 15 passengers, including the driver, and not used to transport passengers for compensation; or"

(c) APPLICATION OF REGULATIONS TO CERTAIN OPERATORS.—

(1) Chapter 313 is amended by adding at the end thereof the following:

"§ 31318. Application of regulations to certain operators"

"Effective 1 year after the date of enactment of the Intermodal Transportation Safety Act of 1997, regulations prescribed under this chapter shall apply to operators of commercial motor vehicles described in section 31301(4)(B) to the extent that those regulations did not apply to those operators before the day that is 1 year after such date of enactment."

SEC. 518. AUTHORITY OVER CHARTER BUS TRANSPORTATION.

Section 14501(a) is amended—

(1) by striking "route or relating" and inserting "route"; and

(2) by striking "required," and inserting "required; or to the authority to provide intrastate or interstate charter bus transportation."

SEC. 519. FEDERAL MOTOR CARRIER SAFETY INVESTIGATIONS.

The Department of Transportation shall maintain the level of Federal motor carrier

safety investigators as in effect on September 30, 1997, or provide for alternative resources and mechanisms to ensure an equivalent level of commercial motor vehicle safety inspections. Such funds as are necessary to carry out this section shall be made available within the limitation on general operating expenses of the Department of Transportation.

SEC. 520. FOREIGN MOTOR CARRIER SAFETY FITNESS.

(a) IN GENERAL.—No later than 90 days after enactment of this Act, the Secretary of Transportation shall make a determination regarding the willingness and ability of any foreign motor carrier that applied to operate in the United States prior to January 1, 1996, to meet the safety fitness and other regulatory requirements under this title. The Secretary shall notify each carrier of the determination.

(b) REPORT.—One year after the date of enactment of this Act, the Secretary of Transportation shall submit a report to the Senate Commerce, Science, and Transportation Committee and the House Transportation and Infrastructure Committee on the application of section 13902(c)(9) of title 49, United States Code. The report shall include—

(1) information on which carriers have applied to the Department of Transportation under that section;

(2) a description of the process utilized to respond to such applications and to certify the safety fitness of those carriers; and

(3) a description of performance-based measurements that have been used, or are proposed, to ensure the prompt and accurate registration of such foreign motor carriers.

SEC. 521. COMMERCIAL MOTOR VEHICLE SAFETY ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of Transportation may establish a Commercial Motor Vehicle Safety Advisory Committee to provide advice and recommendations on a range of regulatory issues. The members of the advisory committee shall be appointed by the Secretary from among individuals affected by rulemakings under consideration by the Department of Transportation.

(b) FUNCTION.—The Advisory Committee established under subsection (a) shall provide advice to the Secretary on commercial motor vehicle safety regulations and assist the Secretary in timely completion of ongoing rulemakings by utilizing negotiated rulemaking procedures.

SEC. 522. WAIVERS AND PILOT PROGRAMS.

Section 31315 is amended—

(1) by inserting “(a) IN GENERAL.—” before “(After notice”); and

(2) by adding at the end thereof the following:

“(b) PILOT PROGRAMS.—

“(1) IN GENERAL.—In carrying out this section, the Secretary is authorized to carry out pilot programs to examine innovative approaches or alternatives to regulations issued under this title.

“(2) REQUIREMENT FOR APPROVAL.—In carrying out a pilot project under this subsection, the Secretary shall require, as a condition of approval of the project, that the safety measures in the project are designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would otherwise be achieved through compliance with the standards prescribed under this title.

“(3) EXEMPTIONS.—A pilot project under this subsection—

“(A) may exempt a motor carrier under the project from any requirement (or portion thereof) imposed under this subtitle; and

“(B) shall preempt any State or local regulation that conflicts with the pilot project during the time the pilot project is in effect.

“(4) REVOCATION OF EXEMPTION.—The Secretary shall revoke an exemption granted under paragraph (3) if—

“(A) the motor carrier to which it applies fails to comply with the terms and conditions of the exemption; or

“(B) the Secretary determines that the exemption has resulted in a lower level of safety than was maintained before the exemption was granted.

TITLE VI—RAIL AND MASS TRANSPORTATION ANTI-TERRORISM; SAFETY

SEC. 601. PURPOSE.

The purpose of this title is to protect the passengers and employees of railroad carriers and mass transportation systems and the movement of freight by railroad from terrorist attacks.

SEC. 602. AMENDMENTS TO THE “WRECKING TRAINS” STATUTE.

(a) Section 1992 of title 18, United States Code, is amended to read as follows:

“§ 1992. Terrorist attacks against railroads

“(a) GENERAL PROHIBITIONS.—Whoever willfully—

“(1) wrecks, derails, sets fire to, or disables any train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier;

“(2) brings, carries, possesses, places or causes to be placed any destructive substance, or destructive device in, upon, or near any train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier, without previously obtaining the permission of the carrier, and with intent to endanger the safety of any passenger or employee of the carrier, or with a reckless disregard for the safety of human life;

“(3) sets fire to, or places any destructive substance, or destructive device in, upon or near, or undermines any tunnel, bridge, viaduct, trestle, track, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, or otherwise makes any such tunnel, bridge, viaduct, trestle, track, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance unworkable or unusable or hazardous to work or use, knowing or having reason to know such activity would likely derail, disable, or wreck a train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier;

“(4) removes appurtenances from, damages, or otherwise impairs the operation of any railroad signal system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal on a railroad line used, operated, or employed by a railroad carrier;

“(5) interferes with, disables or incapacitates any locomotive engineer, conductor, or other person while they are operating or maintaining a train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier, with intent to endanger the safety of any passenger or employee of the carrier, or with a reckless disregard for the safety of human life;

“(6) commits an act intended to cause death or serious bodily injury to an employee or passenger of a railroad carrier while on the property of the carrier;

“(7) causes the release of a hazardous material being transported by a rail freight car, with the intent to endanger the safety of any person, or with a reckless disregard for the safety of human life;

“(8) conveys or causes to be conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any

act which would be a crime prohibited by this subsection; or

“(9) attempts, threatens, or conspires to do any of the aforesaid acts,

shall be fined under this title or imprisoned not more than twenty years, or both, if such act is committed, or in the case of a threat or conspiracy such act would be committed, within the United States on, against, or affecting a railroad carrier engaged in or affecting interstate or foreign commerce, or if in the course of committing such acts, that person travels or communicates across a State line in order to commit such acts, or transports materials across a State line in aid of the commission of such acts; Provided however, that whoever is convicted of any crime prohibited by this subsection shall be:

“(A) imprisoned for not less than thirty years or for life if the railroad train involved carried high-level radioactive waste or spent nuclear fuel at the time of the offense;

“(B) imprisoned for life if the railroad train involved was carrying passengers at the time of the offense; and

“(C) imprisoned for life or sentenced to death if the offense has resulted in the death of any person.

“(b) PROHIBITIONS ON THE USE OF FIREARMS AND DANGEROUS WEAPONS.—

“(1) Except as provided in paragraph (4), whoever knowingly possesses or causes to be present any firearm or other dangerous weapon on board a passenger train of a railroad carrier, or attempts to do so, shall be fined under this title or imprisoned not more than one year, or both, if such act is committed on a railroad carrier that is engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

“(2) Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon on board a passenger train or in a passenger terminal facility of a railroad carrier, or attempts to do so, shall be fined under this title or imprisoned not more than 5 years, or both, if such act is committed on a railroad carrier that is engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

“(3) A person who kills or attempts to kill a person in the course of a violation of paragraphs (1) or (2), or in the course of an attack on a passenger train or a passenger terminal facility of a railroad carrier involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113 of this title.

“(4) Paragraph (1) shall not apply to:

“(A) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while engaged in the lawful performance of official duties, who is authorized by law to engage in the transportation of people accused or convicted of crimes, or supervise the prevention, detection, investigation, or prosecution of any violation of law;

“(B) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while off duty, if such possession is authorized by law;

“(C) the possession of a firearm or other dangerous weapon by a Federal official or a member of the Armed Forces if such possession is authorized by law; or

"(D) an individual transporting a firearm on board a railroad passenger train (except a loaded firearm) in baggage not accessible to any passenger on board the train, if the railroad carrier was informed of the presence of the weapon prior to the firearm being placed on board the train.

"(c) PROHIBITION AGAINST PROPELLING OBJECTS.—Whoever willfully or recklessly throws, shoots, or propels a rock, stone, brick, or piece of iron, steel, or other metal or any deadly or dangerous object or destructive substance at any locomotive or car of a train, knowing or having reason to know such activity would likely cause personal injury, shall be fined under this title or imprisoned for not more than 5 years, or both, if such act is committed on or against a railroad carrier engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act. Whoever is convicted of any crime prohibited by this subsection shall also be subject to imprisonment for not more than twenty years if the offense has resulted in the death of any person.

"(d) DEFINITIONS.—In this section—

"(1) 'dangerous device' has the meaning given to that term in section 921(a)(4) of this title;

"(2) 'dangerous weapon' has the meaning given to that term in section 930 of this title;

"(3) 'destructive substance' has the meaning given to that term in section 31 of this title, except that (A) the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes, and (B) 'destructive substance' includes any radioactive device or material that can be used to cause a harm listed in subsection (a) and that is not in use solely for medical, industrial, research, or other peaceful purposes;

"(4) 'firearm' has the meaning given to that term in section 921 of this title;

"(5) 'hazardous material' has the meaning given to that term in section 5102(2) of title 49, United States Code;

"(6) 'high-level radioactive waste' has the meaning given to that term in section 10101(12) of title 42, United States Code;

"(7) 'railroad' has the meaning given to that term in section 20102(1) of title 49, United States Code;

"(8) 'railroad carrier' has the meaning given to that term in section 20102(2) of title 49, United States Code;

"(9) 'serious bodily injury' has the meaning given to that term in section 1365 of this title;

"(10) 'spent nuclear fuel' has the meaning given to that term in section 10101(23) of title 42, United States Code; and

"(11) 'State' has the meaning given to that term in section 2266 of this title."

(b) In the analysis of chapter 97 of title 18, United States Code, item "1992" is amended to read:

"1992. Terrorist attacks against railroads".

SEC. 603. TERRORIST ATTACKS AGAINST MASS TRANSPORTATION.

(a) Chapter 97 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1994. Terrorist attacks against mass transportation

"(a) GENERAL PROHIBITIONS.—Whoever willfully—

"(1) wrecks, derails, sets fire to, or disables a mass transportation vehicle or vessel;

"(2) places or causes to be placed any destructive substance in, upon, or near a mass transportation vehicle or vessel, without

previously obtaining the permission of the mass transportation provider, and with intent to endanger the safety of any passenger or employee of the mass transportation provider, or with a reckless disregard for the safety of human life;

"(3) sets fire to, or places any destructive substance in, upon, or near any garage, terminal, structure, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, knowing or having reason to know such activity would likely derail, disable, or wreck a mass transportation vehicle used, operated, or employed by a mass transportation provider;

"(4) removes appurtenances from, damages, or otherwise impairs the operation of a mass transportation signal system, including a train control system, centralized dispatching system, or rail grade crossing warning signal;

"(5) interferes with, disables or incapacitates any driver or person while they are employed in operating or maintaining a mass transportation vehicle or vessel, with intent to endanger the safety of any passenger or employee of the mass transportation provider, or with a reckless disregard for the safety of human life;

"(6) commits an act intended to cause death or serious bodily injury to an employee or passenger of a mass transportation provider on the property of a mass transportation provider;

"(7) conveys or causes to be conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this subsection; or

"(8) attempts, threatens, or conspires to do any of the aforesaid acts—shall be fined under this title or imprisoned not more than twenty years, or both, if such act is committed, or in the case of a threat or conspiracy such act would be committed, within the United States on, against, or affecting a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act. Whoever is convicted of a crime prohibited by this section shall also be subject to imprisonment for life if the mass transportation vehicle or vessel was carrying a passenger at the time of the offense, and imprisonment for life or sentenced to death if the offense has resulted in the death of any person.

"(b) PROHIBITIONS ON THE USE OF FIREARMS AND DANGEROUS WEAPONS.—

"(1) Except as provided in paragraph (4), whoever knowingly possesses or causes to be present any firearm or other dangerous weapon on board a mass transportation vehicle or vessel, or attempts to do so, shall be fined under this title or imprisoned not more than one year, or both, if such act is committed on a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

"(2) Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon on board a mass transportation vehicle or vessel, or in a mass transportation passenger terminal facility, or attempts to do so, shall be fined under this title, or imprisoned not more than 5 years,

or both, if such act is committed on a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

"(3) A person who kills or attempts to kill a person in the course of a violation of paragraphs (1) or (2), or in the course of an attack on a mass transportation vehicle or vessel, or a mass transportation passenger terminal facility involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113 of this title.

"(4) Paragraph (1) shall not apply to:

"(A) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while engaged in the lawful performance of official duties, who is authorized by law to engage in the transportation of people accused or convicted of crimes, or supervise the prevention, detection, investigation, or prosecution of any violation of law;

"(B) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while off duty, if such possession is authorized by law;

"(C) the possession of a firearm or other dangerous weapon by a Federal official or a member of the Armed Forces if such possession is authorized by law; or

"(D) an individual transporting a firearm on board a mass transportation vehicle or vessel (except a loaded firearm) in baggage not accessible to any passenger on board the vehicle or vessel, if the mass transportation provider was informed of the presence of the weapon prior to the firearm being placed on board the vehicle or vessel.

"(c) PROHIBITION AGAINST PROPELLING OBJECTS.—Whoever willfully or recklessly throws, shoots, or propels a rock, stone, brick, or piece of iron, steel, or other metal or any deadly or dangerous object or destructive substance at any mass transportation vehicle or vessel, knowing or having reason to know such activity would likely cause personal injury, shall be fined under this title or imprisoned for not more than 5 years, or both, if such act is committed on or against a mass transportation provider engaged in or substantially affecting interstate or foreign commerce, or if in the course of committing such acts, that person travels or communicates across a State line in order to commit such acts, or transports materials across a State line in aid of the commission of such acts. Whoever is convicted of any crime prohibited by this subsection shall also be subject to imprisonment for not more than twenty years if the offense has resulted in the death of any person.

"(d) DEFINITIONS.—In this section—

"(1) 'dangerous device' has the meaning given to that term in section 921(a)(4) of this title;

"(2) 'dangerous weapon' has the meaning given to that term in section 930 of this title;

"(3) 'destructive substance' has the meaning given to that term in section 31 of this title, except that (A) the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes, and (B) 'destructive substance' includes any radioactive device or material that can be used to cause a harm listed in subsection (a) and that is not in use solely for medical, industrial, research, or other peaceful purposes;

"(4) 'firearm' has the meaning given to that term in section 921 of this title;

"(5) 'mass transportation' has the meaning given to that term in section 5302(a)(7) of title 49, United States Code, except that the term shall include schoolbus, charter, and sightseeing transportation;

"(6) 'serious bodily injury' has the meaning given to that term in section 1365 of this title; and

"(7) 'State' has the meaning given to that term in section 2266 of this title."

(b) The analysis of chapter 97 of title 18, United States Code, is amended by adding at the end thereof:

"1994. Terrorist attacks against mass transportation."

SEC. 604. INVESTIGATIVE JURISDICTION.

The Federal Bureau of Investigation shall lead the investigation of all offenses under sections 1192 and 1994 of title 18, United States Code. The Federal Bureau of Investigation shall cooperate with the National Transportation Safety Board and with the Department of Transportation in safety investigations by these agencies, and with the Treasury Department's Bureau of Alcohol, Tobacco and Firearms concerning an investigation regarding the possession of firearms and explosives.

SEC. 605. SAFETY CONSIDERATIONS IN GRANTS OR LOANS TO COMMUTER RAILROADS.

Section 5329 is amended by adding at the end the following:

"(c) COMMUTER RAILROAD SAFETY CONSIDERATIONS.—In making a grant or loan under this chapter that concerns a railroad subject to the Secretary's railroad safety jurisdiction under section 2102 of this title, the Federal Transit Administrator shall consult with the Federal Railroad Administrator concerning relevant safety issues. The Secretary may use appropriate authority under this chapter, including the authority to prescribe particular terms or covenants under section 5334 of this title, to address any safety issues identified in the project supported by the loan or grant."

SEC. 606. RAILROAD ACCIDENT AND INCIDENT REPORTING.

Section 20901(a) is amended to read as follows:

"(a) GENERAL REQUIREMENTS.—On a periodic basis as specified by the Secretary of Transportation, a railroad carrier shall file a report with the Secretary on all accidents and incidents resulting in injury or death to an individual or damage to equipment or a roadbed arising from the carrier's operations during that period. The report shall state the nature, cause, and circumstances of each reported accident or incident. If a railroad carrier assigns human error as a cause, the report shall include, at the option of each employee whose error is alleged, a statement by the employee explaining any factors the employee alleges contributed to the accident or incident."

SEC. 607. VEHICLE WEIGHT LIMITATIONS—MASS TRANSPORTATION BUSES.

Section 1023(h)(1) of the Intermodal Surface Transportation Efficiency Act of 1991, as amended (23 U.S.C. 127 note), is amended by striking "the date on which" and all that follows through "1995" and inserting "January 1, 2003".

By Mr. ROBB:

S. 1270. A bill to amend section 8339(p) of title 5, United States Code, to clarify the computations of certain civil service retirement system annuities based on part-time service, and for other purposes; to the Committee on Governmental Affairs.

CIVIL SERVICE RETIREMENT SYSTEM ANNUITIES CLARIFICATION LEGISLATION

Mr. ROBB. Mr. President, I rise today to introduce legislation to correct a wrong that has been done to an unknown number of Federal retirees in computing their annuities.

Through a letter from Mr. L. David Jones, I was informed that the 1986 Civil Service amendments contained in the Consolidated Omnibus Budget Reconciliation Act were being misapplied to penalize career Federal civil servants who had some part-time service at the end of their careers. Mr. Jones, and I'm sure many others, was encouraged to transition to retirement by working part-time for several years rather than just retiring after a 30-year career. Imagine Mr. Jones' surprise when he calculated his annuity after 30 years of full-time service and five years of part-time service and realized that he would have been better off if he had just retired after 30 years.

At first I believed this problem was simply a matter of the Office of Personnel Management misunderstanding the intent of Congress and that the situation could be corrected through administrative action. The Office of Personnel Management, however, has firmly stated that they are carrying out the letter of the law, and any change to the current annuity calculation will require congressional action.

That is why I am here today. Mr. Jones, and any others who are in a similar situation, deserve to have an annuity that accurately reflects their many years of service. This bill will allow those retirees to have their annuities recalculated to ensure that they are not penalized for not retiring outright. Realize also, however, that this bill does not authorize back payments for any lost annuity—the legislation simply tries to put things right for future payments to retirees affected by this previous error and to ensure that no future retirees are similarly penalized.

We must also look ahead and realize that any policy which discourages part-time service in these situations threatens to lead to a "brain drain" as baby boomers begin to retire. Many agencies have already expressed concern about their graying workforce and the difficulties they will face as these experienced workers retire. One option often mentioned is to encourage part-time service, so that the experience remains and allows for a transition of responsibilities to younger workers. As it stands now, a civil servant would be ill-advised to agree to that part-time transition to retirement.

For both of these reasons, I encourage all of my colleagues to support this legislation, and I will work with my colleagues on the Governmental Affairs Committee to see that this bill is considered as quickly as possible.

By Mr. GRAHAM:

S. 1273. A bill to amend title 10, United States Code, to expand the National

Mail Order Pharmacy Program of the Department of Defense to include covered beneficiaries under the military health care system who are also entitled to Medicare; to the Committee on Armed Services.

THE NATIONAL MAIL ORDER PHARMACY PROGRAM EXPANSION ACT OF 1997

Mr. GRAHAM. Mr. President, today, I stand before you to highlight an injustice which has been done to the men and women who have served this country with selfless dedication. They have devoted themselves to the mission of protecting our country while promoting peace and democracy around the world. For this contribution to our country, we reward their performance with a retirement package which includes health care. Unfortunately, through a series of independent laws, we have created a disjointed health care benefits package which treats retirees differently depending on their age and where they happen to live.

I am introducing a bill to correct this disjointed health care policy. There is clearly a double standard affecting our veterans. Under the current provisions of the law, military retirees are eligible to receive health care under the CHAMPUS program until they become 65 years old. After that time, their health care is provided by Medicare. Under the CHAMPUS program, retirees have access to a program known as the mail-order pharmacy program which allows military members and retirees to obtain prescription drugs through the mail. Retirees over the age of 65 years old cannot be supported through the CHAMPUS program under current legislative restrictions. Medicare has no such pharmacy benefit. This means that once retirees become 65 years old, they lose the benefit and convenience of a mail-order pharmacy program. This comes at a time in their lives when they are more likely to need prescription drugs.

I commend the Department of Defense on their initiative to develop the mail-order pharmacy program. This new program was established to provide better service to the military community and to enable them to maximize that level of service within their decreasing available resources.

Military retirees and their dependents are eligible to receive free medical care from military installations on a space available basis. However, as the military continues to downsize their medical corps, "space available" is becoming more and more elusive for retirees. Pharmacy services are likewise available to retirees at military installations on a space available basis. For those retirees who were receiving their medical care, including prescription services, from a military installation which was closed by Base Realignment and Closure [BRAC] decisions, we have made an exception to the law which allows these retirees to participate in the mail-order pharmacy program. We have created a conglomeration of rules