SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Ms. MOSELEY-BRAUN [for herself and Mr. DURBIN]:

S. Res. 103. A resolution to congratulate the Chicago Bulls on winning the 1997 National Basketball Association Championship and proving themselves to be one of the best teams in NBA history; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERRY (for himself, Mr. BUMPERS, Mr. HARKIN, Mr. GRASSLEY, Ms. LANDRIEU, Mr. CLELAND, Mr. LIEBERMAN, Mr. WELLSTONE, Mr. LEVIN, Ms. SNOWE, and Mr. LAUTENBERG):

S. 956. A bill to amend section 7(m) of the Small Business Act to establish a Welfare-to-Work Microloan Pilot Program; to the Committee on Small Business.

THE WELFARE-TO-WORK MICROLOAN PILOT PROGRAM ACT OF 1997

Mr. KERRY. Mr. President, I send a bill to the desk and ask for its appropriate referral.

Mr. President, I am pleased to introduce today the Welfare-to-Work Microloan Pilot Program Act of 1997, and I do so with Senators BUMPERS, HARKIN, GRASSLEY, LANDRIEU, CLELAND, LIEBERMAN, WELLSTONE, LEVIN, SNOWE, and LAUTENBERG. I thank and congratulate all of them for their commitment to this important program. This legislation will assure that Americans who have had to rely on public assistance have the same opportunities as other Americans to start and operate a small business.

Mr. President, America is the home of the entrepreneurial frontier. Here, anyone can explore boundless opportunities to try new things, to begin again, and to build new lives. Americans have inherited characteristics from the frontiersmen—embracing risk, change, and individualism—and applied it directly to starting and expanding American small businesses. As the ranking member of the Small Business Committee and a Senator from Massachusetts, I am honored to represent a State that employs more and more people and continues to fuel the national economy and job market. Massachusetts' 360,000 small firms are employing over 50 percent of our workers. From 1991 to 1995, all American businesses with fewer than 500 employees created 11 million new jobs, while businesses with more than 500 employees cut three million jobs overall.

I want to open the entrepreneurial frontier to all Americans who want to leave the welfare system behind and build new lives for themselves and their children.

The Welfare-to-Work Microloan Pilot Program is geared to assist people in moving people from welfare into the work force, not just as workers but as entrepreneurs. It is more than a jobs bill. It will not only build businesses, but it will build communities. This bill builds on the foundation of the SBA's remarkable Microloan Program which allows businesses and startup companies to receive development counseling and small loans of up to $25,000. The average microloan size is only $10,800. Under the Welfare-to-Work Microloan Pilot Program local organizations will serve welfare recipients by using SBA grants for intensive business development assistance. In addition, the bill will allow local organizations to help future business owners overcome two of the greatest obstacles that they have, access to affordable transportation and convenient child care.

Mr. President, I urge my colleagues to support this legislation—to assure that the American dream can be realized by all Americans and future generations. We must build a system now that will help our children. One in five of America's children—14.3 million—live in poverty. Two-thirds of welfare recipients are children. If we want to lift them up and out of poverty, we must give them new opportunities to explore and benefit from the resources of America's frontier. We must act now to provide their parents and guardians with a map across the entrepreneurial frontier.

Mr. President, the fact is that this type of program has already worked, and I just want to share a couple of quick examples with you. One of the people who has already received this type of grant under the Microloan Pilot Project is Karla Brown, owner of Ashmont Flowers Plus in Boston. In 1990, she found herself divorced with a young daughter, a mountain of debt, bad credit and unemployed as a result of major surgery. After being on disability for 3 years, she decided to start her own business. In 1993, she started selling flowers at a subway station. As the business grew, she leveraged the resources of local organizations, developed a business plan, received an SBA funded Microloan, and opened a store in Codman Square, a critical commercial node in a low-income neighborhood in Boston. With a $19,000 loan from the Jewish Vocational Service in Boston and a tremendous commitment to become a successful entrepreneur, she is now the proud owner of a business that has annual sales of $100,000 and employs two people part-time. Karla Brown's big idea of a flower shop was one of many new businesses applauded by an article entitled ''SBA Microloans Fuel Big Ideas'' in a recent issue of the U.S. Chamber of Commerce's magazine.

Karla is joined by others on this entrepreneurial frontier. In 1995, the Western Massachusetts Enterprise Fund made a loan of less than $10,000 to a divorced, single mother who was receiving public assistance. The woman believed in her own skills as a hairdresser and her own personal efforts. With the help of her community organization, she developed a marketing plan, targeted special underserved markets—homebound elderly, group home residents' and disabled people—and, in just 2 years, she is now busy with appointments all day long and has never missed a loan payment. In fact, under the SBA's Microloan Program, the Government has not lost one dime in the 6 years of operation because loan repayment rates are so high. The reason this program is so successful is because the SBA provides grants for technical assistance for the loan recipients and helps to make certain that these ventures are successful.

Another Massachusetts organization, Jobs for Fall River, Inc., saw the potential in a 35-year-old woman who was relying on welfare while caring for her elderly mother and her young son. She wanted to start a business to design clothing. Her first attempt at the enterprise failed because she was not able to afford the child care, transportation costs, and operating costs for running the business without a loan. However, after attending an 8-week intensive training session, she was able, through the assistance of Jobs for Fall River and SBA-provided funding, to develop a business plan and receive a loan in May of 1996.

We can open the entrepreneurial frontier for more Americans on public assistance with the Welfare to Work Microloan Pilot Program—partnering the resources of the SBA with local organizations like the Western Massachusetts Enterprise Fund, Jobs for Fall River, and the Jewish Vocation Services in Boston.

During a recent hearing before the Small Business Committee, an inspiring witness from Iowa, Mr. John Else of the Institute of Social and Economic Development, told of the successes his organization is working with welfare recipients under the SBA Microloan Program. Individuals in their program have a business success rate that is three times higher than the average for new businesses. His testament, combined with the requests of other local organizations for more flexibility to help this community, convinced me that we need to expand the success of this program.

Opening the frontier for more small businesses is critical to achieving the aims of welfare reform. States are now facing tall goals to reduce the welfare roles—their caseloads must be reduced by 25 percent this year under the new law. The growth in job creation is directly parallel to the growth in small businesses. In America today, there are over 22 million small businesses compared with only 14,000 big businesses. We see more women than ever exploring the entrepreneurial frontier. Women-owned businesses represent one-third of all U.S. companies, contribute more than $1.5 trillion in sales to the U.S. economy, and employ more people than the Fortune 500. Women-owned sole proprietorships have a start-up rate twice that of male-owned

businesses. It is important for us to help women move into entrepreneurial roles because women comprise a large share of welfare roles. I suggest that the program I am introducing today is an excellent way to move people from welfare into the marketplace, not just as workers and wage earners, but as business creators, as people who will be able to provide jobs for other people as well as gain their own self-sufficiency.

Because the record shows that during the 6 years of the Microloan pilot project the Federal Government has not suffered one loss, we ought to be prepared to replicate these results with programs that create more jobs and enhance the economy. I hope my colleagues will support this effort.

Mr. HARKIN. Mr. President, I rise to express support for the Welfare-to-Work Microloan Pilot Program Act of 1997. The existing Small Business Administration [SBA] Microloan Program has enjoyed great success in moving people off welfare and helping them start their own business. The welfare-to-work initiative will not only continue this success, but it will also improve the services provided by the current Microloan Program.

The existing Microloan Program has two components. First, it works to provide short-term loans of up to $25,000 to small businesses. SBA makes these loans through various nonprofit organizations that have close ties to their communities. Second, the Microloan Program also provides technical assistance to help clients learn important skills such as accounting, marketing, and advertising.

It is important that we continue the Microloan Program, and we must also look to implement other services that will make it more effective. The welfare-to-work initiative does just that by establishing a 3-year program that will continue and expand upon the existing program. Like the current law, this bill will extend loans and technical assistance, but it will also allow for more business planning and training assistance prior to extending loans to welfare recipients. It will also allow intermediaries to use supplemental grants to help borrowers with transportation and child care expenses. Extending these services is essential in order to allow welfare recipients who don't have the money for transportation and child care to participate in the program.

An example of the Microloan Program's success is the Institute for Social and Economic Development [ISED] in Iowa City, IA. ISED is different from most development corporations in the Microloan Program because it does not extend loans to its clients. Rather, it provides technical assistance and will act as an intermediary to set up a loan between their client and a bank. ISED's technical assistance program provides structured training in which clients develop plans for a profitable business. Due to this effort, ISED has enjoyed an extremely high success rate, with 70 percent of its client's businesses still operational. This statistic becomes even more impressive considering that of all the small businesses started across the Nation in the last 8 years over 70 percent no longer exist.

We must recognize that the welfare-to-work initiative benefits both welfare recipients and our taxpayers. The Microloan Program presents welfare recipients with the preferable option of self-employment as a means to move off welfare. At the same time, it saves the State money and moves people from being welfare recipients to taxpayers. In Iowa, nearly 400 welfare recipients have started and maintained their own small business, and the total savings to the State have been $1 million in welfare benefits alone.

The welfare-to-work initiative gives welfare recipients the opportunity to be self-sufficient. It provides the entrepreneur with the money to start a business, and the skills and services to maintain it.

By Mr. BINGAMAN (for himself, Mr. JEFFORDS, Mr. BOND, Mr. MACK, and Mr. D'AMATO):

S. 957. A bill to establish a Pension ProSave system which improves the retirement income security of millions of American workers by encouraging employers to make pension contributions on behalf of employees, by facilitating pension portability, by perserving and increasing retirement savings, and by simplifying pension law; to the Committee on Labor and Human Resources.

THE RETIREMENT SECURITY FOR ALL AMERICANS PENSION PRO-SAVE ACT

Mr. BINGAMAN. Mr. President, the problem of retirement security is an ever mounting challenge to the future welfare of our Nation. More than 51 million Americans are not covered by any kind of pension plan. The aging of the baby boom generation will dramatically increase the retired population in proportion to the working population early in the next century. By the year 2029, when the youngest baby boomers reach age 65, more than 68 million persons will be older than 65—accounting for more than 20 percent of the U.S. population, compared to just 12 percent today.

In my own State of New Mexico just 29 percent of our work force has some kind of pension plan. As this chart shows, New Mexico has the worst ranking in the nation in terms of workers covered by pensions. Just a few states have private sector working populations with over 50 percent covered by pensions.

Our Nation is facing certain crisis if we fail to take steps to correct this problem of people working until retirement—and finding that their Social Security benefits fail to maintain adequate and acceptable living standards. Despite the proliferation of retirement products in various forms of IRA's and 401(K) plans, patterns clearly show that those who earn enough to save probably do. Our problem is that over the last 18 years, we have had no increase in the percentage of our work force that is participating in a qualified pension program.

Those who are well off and can look forward to retirement security cannot afford to just abandon those who are not. We have a market failure that we must address, particularly as the Nation's traditional safety net is being rolled back because of budget cuts on so many other fronts. I am not opposed to improving and even expanding the pension plans of those who have them now. My concerns, however, are focused on the reality that we are improving existing pension plans, expanding IRA opportunities and creating new forms of individual retirement accounts, but we are still doing absolutely nothing to get a large portion of our uncovered work force covered by some degree of retirement savings.

The costs of doing what we need to do will be large. But let's think for a moment about the IRA provisions in the tax bill we are discussing today. The IRA expansion provisions in the Senate version of the bill cost approximately $3.3 billion during the first 5 years and $20.5 billion in the following 5 years. These costs may be appropriate and necessary—but at the same time, we need to confront the revenue impact of covering the parts of our society that currently have no retirement savings at all. I think that it is poor public policy to expand only one-half of the equation like we have been doing.

Mr. President, in order to ensure that this Congress does face the issue of retirement security for all working Americans and not just the fortunate minority who are saving, I am here to introduce the ''Retirement Security for All Americans Pension Pro-Save Act.''

The bill I am introducing outlines a concept for pension expansion and portability that has been discussed in this Chamber several times over the last several decades but which has not evolved until now as legislation. The Pension ProSave System, a clearinghouse for individual pension accounts, would improve the retirement income security of millions of working Americans by encouraging employees to make contributions on their behalf, by facilitating pension portability, by preserving and significantly increasing retirement savings and by simplifying pension law.

Mr. President, this plan is not aimed at the existing pension and savings structures in this country. This proposal targets those who are working their way towards retirement—and will have little or nothing to supplement their Social Security benefits. Despite 18 years of availability of simplified pension plans, pension coverage remains low in the small business sector. Even when covered by a tax-advantaged pension plan, workers do not always continue to save their pension assets when they can receive them when

moving from one place of employment to another. Tax penalties unfortunately have not been very successful in discouraging the spending of these mid-career retirement savings disbursements. Of the $47.9 billion in pre-retirement distributions made in 1990, less than 20% of recipients reported putting the entire distribution into another tax-qualified retirement plan.

The Pension ProSave Clearinghouse is modeled after the highly successful Teachers Insurance and Annuity Association-College Retirement Equity Fund [TIAA–CREF], the largest private pension system in the world with assets over $136 billion and about 1.7 million participants at about 5,500 institutions. Not replacing existing pension programs, Pension ProSave is designed to supplement these other programs and will increase pension coverage to millions of Americans.

The benefits of Pension ProSave are first, that this plan would provide an incentive and a simple, hassle free way for employers to provide portable pension benefits to their workers. Employees could also make matching contributions to their accounts on a 2:1 basis to a maximum of $6,000. The employer's contributions also would not exceed $6,000. Mr. President, I want to emphasize that these are the employee's accounts—not the government's and not the employer's. These accounts will remain with those workers the duration of their lives.

Second, Pension ProSave would stop the leakage of retirement savings by furnishing employer's pension contributions into a privately managed, pension portability clearinghouse. Worker's account balances would be invested and managed by private sector firms in diversified portfolios.

Let me explain how Pension ProSave would work. Any employer wishing to take advantage of the Pension ProSave Program would furnish the names of all employees, employed for at least 6 months and over 21 years of age, to the ProSave Portability Clearinghouse established in this Act. The employer will indicate each employee's salary and the uniform percentage of all salaries which the employer will contribute to employee ProSave accounts. The employer will have the option of changing its percentage contribution each year, as long as that contribution equals at least 1 percent. This can help business owners—who want to provide pension benefits to their employees—avoid getting locked into a rate that remains fixed while the economic performance of their small businesses may be volatile.

Once a ProSave account is established for an employee, the employer will forward contributions to the account at the time of each paycheck or at least prior to the end of that year.

With the agreement of the employee, an employer who has another defined benefit or defined contribution plan for its employees and who does not choose to establish ProSave accounts will still be able to use the portability clearinghouse as a repository for retirement funds of an employee who is leaving its employ. When a worker leaves one job where retirement benefits have accrued, the employee may request the employer to deposit the cash value of those retirement benefits—or any portion of them—in the Pro Save account of the employee at the portability clearinghouse.

Mr. President, the funds contributed by an employer to the retirement security of his or her employees by way of a ProSave account will remain there and be invested at the direction of the employee until retirement. The portability clearinghouse will contract with investment firms to manage funds through the clearinghouse. Investment options would include a fixed income fund, an equity fund, a government securities fund, small business capitalization fund, an international fund, and an infrastructure fund. Accounts would be valued on a daily basis, and participants could transfer funds among investment accounts at intervals determined by an oversight board, perhaps at monthly or quarterly intervals. Employers will have no responsibility for administering a pension fund or managing funds for employees who have left their employment. This should be very attractive to businesses that do not desire to carry long-term responsibilities for workers who have moved on.

While employer contributions are locked into the Pension ProSave accounts until retirement, funds contributed by the employee are available to be loaned for certain purposes and under terms established by the Portability Clearinghouse Board.

At retirement, account balances would be paid out either in the form of an annuity—with survivor benefits—or a lump sum retirement. Spousal consent would be required.

Mr. President, I have no doubt that some who oppose this plan will rattle the cages and make claims that this act is nothing but more big Government, another bureaucratic institution that spreads the Government further into our lives. These claims will be wrong—and will only serve to help maintain an economic reality that permits those best off in our society to save up to $30,000 a year on a tax-advantaged basis. Others in simple 401(k) plans can save up to $9,500 a year. It is unacceptable that workers who don't have an available pension plan—can only save $2,000 a year in IRA accounts.

We have a responsibility not only to create a more equitable savings structure for those Americans who have the desire and wherewithal to save—but also to the many Americans who are low-income workers who move from job to job eventually to retirement, finding then that nothing has accrued to help them in their retirement years.

Government had a role in establishing IRA's and 401(k)'s. Now we must do what we can to provide incentives to employers to provide modest retirement security for more employees. This plan is an enabler—it creates a structure, similar in many ways to the TIAA–CREF model established at the beginning of this century by Andrew Carnegie to provide pension portability for professors and university employees moving between one higher education institution and another.

This is an issue in which the Government does have an important role to play because the market has failed to provide the extension of pension coverage to 51 million Americans. Pension ProSave promotes savings, helps more people reach retirement with pensions, helps buffer against the turbulence of the economy, and provides many employers with a good vehicle for profit-sharing. All of these are benefits for our Nation as a whole.

For the employer, Pension ProSave provides a hassle-free, no red-tape way to make contributions to a pension—and frees employers from the responsibility and requirement of administering a pension plan.

The plan also increases the amount of the tax-deferred savings permitted for the employer and each employee. It gives the employer a vehicle for profit-sharing, and the employer escapes any and all responsibility for the employee's pension. Funds contributed to Pension ProSave will be exempt from other savings limits under current law for other pension products. This should provide a powerful incentive to owners of small businesses who can save more themselves if they make equivalent commitments to their employees.

For the employee, the benefits are most importantly that millions of pension-uncovered workers in this country will get coverage. This plan increases the amount of tax-deferred savings permitted to each employee, provides immediate vesting, and removes the concern that employees might have about the solvency of pension plans or their previous employers. Among other benefits, Pension ProSave eliminates political corruption in the administration of pension funds and provides one account that can be permanently maintained and in which funds can continually accrue no matter the number of job changes in a worker's career.

By having national visibility, Pension ProSave would make the concept of saving for retirement more attractive and appealing to employees. This plan would increase employer pension contributions on behalf of their workers without existing pension plans, rather than relying on 401(k) plans that are funded largely by employees' voluntary saving decisions. Employers would be able to make voluntary, tax-deductible contributions on behalf of their workers and would have flexibility in the amount they contribute each year.

Vesting would be immediate. Plan sponsors would be relieved of the expense and responsibility of providing financial education to their employees

and the legal implications of providing investment options.

Mr. President, I think that one cause of the extraordinary economic anxiety in our Nation is related to the eroding sense of financial security at retirement. A recent study of workers' views of their present and future economic circumstances found that most people believe that despite the twists, turns, and pitfalls in our rapidly changing economy, they can chart a successful course to retirement. But their anxiety levels were extremely high when concerns about the solvency of Social Security and about the great number of Americans without pension benefits were mentioned.

Americans include retirement security in their personal strategies for economic success. I believe that America is calling for a credible proposal that will get more of our citizens covered by some kind of pensions.

There is no doubt that the costs will be high and will impact the Nation's short term tax revenue. However, it is also clear that increasing retirement savings will help bolster national savings, which will help spur more long-term investment and economic growth. The high cost of this plan would be true of any plan that succeeds in establishing more retirement security for our working population. We seem to be willing to sustain high costs for expanding retirement opportunities for some; I just think we need to make sure that we are doing whatever we can to provide retirement savings coverage to the rest of society.

These are costs that we must consider and should bear—for the long term benefit of our Nation in whole. Establishing Pension Pro-Save accounts is an investment that will help our Nation better able to cope with the retirement savings crisis that we will certainly face in the future.

Mr. JEFFORDS. Mr. President, I am pleased to be an original cosponsor of the Pension ProSave Act with Senator JEFF BINGAMAN of New Mexico. Senator BINGAMAN has done yeoman's work in drafting this bill. I hope my colleagues will take time to read the bill and join us as cosponsors.

As the average age of Americans is rising at a steady rate, we all have become more aware of the importance of retirement programs and retirement security. At the same time, only about half of all workers are covered by a retirement program—and of those, many who are covered, work for a Federal, State, or local government entity. An incredible 87 percent of workers employed by small businesses, those with fewer than 20 employees, have no private retirement or pension coverage. Less than 40 percent of the 33 million Americans aged 65 and older collect a pension, other than Social Security. These numbers are cause for concern.

There are three sources for retirement security: Social Security, personal savings and a pension. Our bill has been offered in an effort to expand pension coverage, especially among small business establishments where coverage and participation is least likely to occur. The complexity and expense involved in setting up a pension plan is daunting. It is outside the grasp of many small businesses. In addition to administrative complexity and the cost of hiring an actuary, accountant and a lawyer to set up a plan, a small business often decides against plan sponsorship because of laws and regulations that actually discriminate against them, such as the prohibition on matching contributions for self-employed individuals, or limitations on contributions for small plans that are even lower than those permitted for the medium-sized or large pension plan.

Pension ProSave would permit the establishment of either a simplified defined contribution or a defined benefit pension plan or both, with greatly reduced recordkeeping, reporting and regulatory requirements. The ProSave system encourages thrift, through its defined contribution provisions, which are individual account plans and similar in concept to an IRA or a 401(k) plan, and through its simplified defined benefit plan provisions which are traditional pension plans promising a specific benefit payment upon retirement.

In addition, one of the most appealing features of Pension ProSave is the portability clearinghouse. The clearinghouse would make it easier for workers with ProSave accounts to take their pensions with them as they change jobs. True pension portability has been a most elusive objective for policymakers and yet it is one of the most important features that Americans want in pension programs.

A lack of portability also discourages long-term pension savings because it can encourage leakage. Pension system leakage occurs when a worker changes jobs and either cashes out a pension benefit or receives a lump sum distribution from a retirement plan and spends the money, rather than saving it. Taxing distributions has not stopped leakage from the system. The more difficult it is for that worker to transfer his account from one plan to another, the more likely it is that the worker will just spend the money. The more complicated and punitive the laws and regulations surrounding pension rollovers, the less likely a worker is to bother to make one. He or she will simply pay the penalty tax and spend the money.

Consequently, pension experts have spent a great deal of time and effort trying to figure out ways to ease these pension rollovers and overcome obstacles to portability so that people can save their all retirement money in a single account.

Let me pause for a moment to say that while Pension ProSave's portability feature is the result of many years of consultation and careful drafting, we realize that it would be quite difficult to justify a new government sponsored entity in these days of fiscal stringency. Our experience with the Pension Benefit Guaranty Corp. leads me to suggest that there could be a more efficient means of making Pension ProSave accounts portable than by establishing a new government sponsored entity to manage and invest them.

Individual retirement accounts (IRAs) are portable and yet can be invested in banks, certificates of deposit, mutual funds, equities or any number of other investment vehicles. Should we permit Pension ProSave accounts to be managed and invested in the private sector and if so, how should that be accomplished? By leveraging the power of the private sector, savers have the potential for more investment choices, and for higher rates of return on their investments. In addition, there currently exists in the private sector, mutual fund/401(k) clearinghouses which are used to track individual accounts and keep records of investments and account balances. Are these models for the Pension ProSave clearinghouse?

I look forward to hearing about these and other substantive and drafting issues from experts who are concerned about increasing retirement savings at the individual level and in increasing retirement coverage among small businesses where it is needed the most. I am especially interested in the concept of a simplified defined benefit plan which is portable and hope that we can explore that issue when hearings are held on this bill in the Labor and Human Resources Committee. Pension ProSave Act is a good bill. I am proud to cosponsor it and thank Senator BINGAMAN for his leadership in bringing us together to introduce it.

By Mr. MOYNIHAN (for himself and Mr. D'AMATO):

S. 958. A bill to provide for the redesignation of a portion of State Route 17 in New York and Pennsylvania as Interstate Route 86; to the Committee on Environment and Public Works.

THE REDESIGNATION OF ROUTE 17 AS INTERSTATE 86 ACT OF 1997

Mr. MOYNIHAN. Mr. President, I rise today with my distinguished fellow Senator from New York to introduce legislation that will redesignate sections of New York and Pennsylvania Route 17 as Interstate 86. The southern tier of New York has waited over 40 years for this historic legislation that will correct a mistake made in 1955 that has contributed to the economic decline of this once prosperous region.

When the original plans were being developed for the New York Interstate System, Route 17 was to be designated the main east-west interstate route. The (Federal) Bureau of Public Roads thought otherwise. They preferred the New York State Thruway which was already under construction using state moneys. Albany did not object nor did representatives of the region.

The error had no significance at the time, since no special funding was

available for interstates. The very next year, however, the Federal-Aid Highway Act of 1956 was enacted, creating a Highway Trust Fund to be funded through gasoline taxes. The Federal Government would now pay 90 percent of the cost of any interstate segment. The Southern Tier Expressway—Route 17—was not eligible for those interstate funds.

In the 1950's the region was still bustling—IBM was in Binghamton, half the television sets in the world were built in Elmira, Corning was a high tech contender, and Jamestown was a major manufacturing center. What begun as an Indian trail, became a great railroad, and a strikingly creative industrial corridor, was allowed to languish.

It is time we do something about it.

This legislation we introduce today would finally ameliorate the legacy of an opportunity missed long ago.

The bill would immediately designate 360 miles of Route 17 between Erie, PA and Harriman, NY, that meet Federal interstate construction standards as Interstate 86, creating connections to I–90, I–390, I–81, I–84, and I–87. The remaining 30 miles of Route 17 would be designated as a future part of the interstate system and will become I–86 as soon as the State Department of Transportation upgrades them. I am confident the NYDOT, working together with the Federal Highway Administration, will soon have the rest of Route 17 up to interstate standards.

The southern tier region, along with the rest of Upstate New York, has suffered enduring economic hardship and job losses, even as the national economy has boomed. The bill I propose to redesignate Route 17 as I–86 would help enhance the visibility of this important region and highlight its potential for business development and tourism.

I would also like to recognize the efforts of Samara Barend, a southern tier native, who was so effective in mobilizing support for this issue. I urge my colleagues to join with me in support of this most important legislation.

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. 958

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

SECTION 1. FINDINGS.

Congress finds that—

(1) the designation of a portion of State Route 17 in New York and Pennsylvania as an Interstate route would promote the visibility of the region, the potential of the region for business development and tourism, and the economic regrowth of the region; and

(2) a major portion of State Route 17 is a logical addition to the Interstate System and will provide an east-west interstate highway that benefits a large region of New York and Pennsylvania that has suffered competitively from the lack of such a highway.

SEC. 2. DESIGNATION OF PORTION OF STATE ROUTE 17 IN NEW YORK AND PENNSYLVANIA AS INTERSTATE ROUTE 86.

(a) IN GENERAL.—Subject to subsection (b)(2), the portion of State Route 17 located between the junction of State Route 17 and Interstate Route 87 in Harriman, New York, and the junction of State Route 17 and Interstate Route 90 near Erie, Pennsylvania, is designated as Interstate Route 86.

(b) SUBSTANDARD FEATURES.—

(1) UPGRADING.—Each segment of State Route 17 described in subject (a) that does not substantially meet the Interstate System design standards under section 109(b) of title 23, United States Code, in effect on the date of enactment of this Act shall be upgraded in accordance with plans and schedules developed by the applicable State.

(2) DESIGNATION.—Each segment of State Route 17 that on the date of enactment of this Act is not at least 4 lanes wide, separated by a median, and grade-separated shall—

(A) be designated as a future part of the Interstate System; and

(B) become part of Interstate Route 86 at such time as the Secretary of Transportation determines that the segment substantially meets the Interstate System design standards described in paragraph (1).

(c) TREATMENT OF ROUTE.—

(1) MILEAGE LIMITATION.—The mileage of Interstate Route 86 designated under subsection (a) shall not be charged against the limitation established by the first sentence of section 103(e)(1) of title 23, United States Code.

(2) FEDERAL FINANCING RESPONSIBILITY—

(A) IN GENERAL.—Subject to subparagraph (B), the designation of Interstate Route 86 under subsection (a) shall not create increased Federal financial responsibility with respect to the designated Route.

(B) USE OF CERTAIN FUNDS.—A State may use funds available to the State under paragraphs (1) and (5)(B) of section 104(b) of title 23, United States Code, to eliminate substandard features, and to resurface, restore, rehabilitate, or reconstruct, any portion of the designated Route.

By Mr. LAUTENBERG:

S. 959. A bill to amend chapter 44 of title 18, United States Code, to prohibit the sale or transfer of a firearm to, or the possession if a firearm by, any person who is introxicated; to the Committee on the Judiciary.

THE NO GUNS FOR DRUNKS ACT OF 1997

Mr. LAUTENBERG. Mr. President, today I am introducing legislation to prohibit firearm sales to, and possession by, individuals who are obviously intoxicated.

Mr. President, a casual observer might think that this legislation is not necessary. Most Americans probably think that it is already illegal to sell a gun to a visibly intoxicated person. At the very least, the average citizen likely believes that it is only common sense that a gun dealer would never sell a gun to a drunk customer. Unfortunately, neither assumption is correct. Some gun dealers do sell guns and ammunition to visibly intoxicated persons. My bill will deter these sales, and punishes those who persist in making such dangerous sales.

Federal and state laws currently prohibit the sale of alcohol to obviously drunk individuals, to protect both the intoxicated individual and others. Likewise, it is against the law for intoxicated persons to operate a motor vehicle. Unbelievably, it is not against Federal law to sell a firearm to a visibly intoxicated individual, or for an intoxicated person to possess a firearm.

Worse still, Mr. President, some firearms dealers simply ignore common sense and sell guns and ammunition to any customers if they are clearly intoxicated. The absence of a legal prohibition on such sales allows these gun dealers to escape liability for the absolutely tragic, and foreseeable, consequences of such outrageous conduct.

For instance, Deborah Kitchen, a mother of five children, is now a quadriplegic after being shot by her ex-boyfriend with a rifle he had purchased from a Florida K mart. This man was so drunk when he purchased the rifle that the store clerk had to fill out the Federal firearm purchase form on his behalf. By his own admission, the ex-boyfriend had consumed a fifth of whisky and a case of beer the day he shot Ms. Kitchen. Nevertheless, the store sold him a .22 caliber bolt action rifle and a box of bullets. He then used these to paralyze Ms. Kitchen from the neck down.

Ms. Kitchen sued the K mart for it's outrageous conduct. A jury found the store liable of common law negligence, and returned a verdict in the amount of $12 million. A Florida appeals court overturned the jury's verdict, citing the lack of statutory prohibition on the sale of firearms to intoxicated persons.

Or, Mr. President, consider the case of Anthony Buczkowski, who suffered severe injury after being shot by a drunken ammunition purchaser. William McKay stumbled into a Michigan K mart store after a day-long drinking spree. Although obviously drunk and an admitted ''mess'', he was still sold a box of shotgun shells. He later used this ammunition to shoot Mr. Buczkowski. Although the trial court entered a judgment against K mart for the damages suffered by Mr. Buczkowski, the Michigan Supreme Court reversed, citing a lack of legal prohibition for such sales.

Unfortunately, common sense and a sense of civic obligation have not been sufficient enough to deter these sales. Perhaps the threat of criminal and civil liability will do the job. Mr. President, it is my fervent hope that this legislation, if enacted, will end any future sales of guns and ammunition to intoxicated persons.

Mr. President, I do not claim that most licensed gun dealers do or would sell guns or ammunition to intoxicated individuals. But the fact is that these sales do occur—and when they happen, the consequences can be devastating.

Mr. President, our country now understands that alcohol and automobiles are a deadly mix. Common sense, and heartbreaking experience, tells us that alcohol and guns also do not mix. It is time that our laws reflect this common sense notion.

I urge my colleagues to support this bill, and ask unanimous consent that a

copy of the legislation be printed in the RECORD.

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

S. 959

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

SECTION 1. FIREARMS PROHIBITIONS RELATING TO INTOXICATED PERSONS.

Section 922(d) of title 18, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (9), by striking the period at the end and inserting ''; or''; and

(B) by adding at the end the following:

''(10) is intoxicated from the use of alcohol or a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).''; and

(2) in subsection (s)(3)(B)—

(A) in clause (vi), by striking ''and'' at the end;

(B) in clause (vii), by adding ''and'' at the end;

(C) by adding at the end the following:

''(viii) is not intoxicated from the use of alcohol or a controlled substance (as that term is defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));''.

By Mr. DODD (for himself and Mr. LIEBERMAN):

S. 960. A bill to amend the Atomic Energy Act of 1954 to authorize the Nuclear Regulatory Commission to direct that a portion of any civil penalty assessed by used to assist local communities; to the Committee on Environment and Public Works.

THE DISTRESSED COMMUNITIES SUPPORT ACT

Mr. DODD. Mr. President, I rise today to introduce legislation to help communities that suffer when nuclear power plants operate in an unsafe manner.

As most of my colleagues know, when the NRC discovers safety violations at a nuclear power plant, it is authorized to fine that facility for its transgressions, and these fines have been as high as $1.25 million. Under current law these fines go directly into the federal treasury, with no allowances being made for the communities that are home to these deficient nuclear power plants. When a nuclear facility is poorly operated, it often creates severe safety, environmental, and economic concerns for surrounding communities. Therefore, it is only fair that those communities should receive a portion of any NRC fines to go toward addressing matters of local concern. That is why I have introduced the Distressed Communities Support Act.

This legislation is simple and straightforward—it would allow 50 percent of the fines levied by the NRC against nuclear facilities to be funneled back to communities adversely affected by the plant's mismanagement.

The Distressed Communities Support Act would be extremely helpful to towns adjacent to nuclear plants which may be trying to develop special health, safety, and environmental programs. More important, this bill would help communities where the safety violations of the nuclear plant require that the plant be permanently shut down and decommissioned.

It is a fact that nuclear plants around the country are aging, making it increasingly difficult for many of them to meet safety standards and remain operational. Therefore, it is important that communities throughout the country have increased access to resources to deal with problems caused by negligent nuclear plants. In my home state of Connecticut, the time to help local communities is now.

The Connecticut Yankee nuclear plant in Haddam, Connecticut is in the beginning stages of decommissioning. In light of numerous safety violations, the Nuclear Regulatory Commission ordered the plant closed until these safety concerns were addressed. Then, in December of 1996, the owners of Connecticut Yankee decided to permanently close the facility. This decision came despite the fact that the license for the facility was set to expire in 2007. While the owners of Connecticut Yankee had chosen to permanently close the plant, the NRC continued its review of the safety violations, and fined Connecticut Yankee $650,000.

This early decommissioning of this plant will have a dramatic impact on Haddam and other surrounding towns. Connecticut Yankee was the area's largest employer and represented almost half of the tax base in the town of Haddam—a town of just under 7,500 residents. It employed more than 300 individuals. The sudden loss of tax revenue and jobs will have a devastating impact on this area, and the town may well be forced to raise local taxes and make cuts in town services, including the public schools.

In addition to the economic impact is the serious health and environmental impact of the way in which this facility was run. The people of Haddam and surrounding towns are facing difficult days as they contend with radioactive waste and related problems.

While local officials and residents are looking at innovative ways to rebuild their town's tax base, Haddam needs and clearly deserves financial assistance to get on the road to economic recovery. As we look for ways to provide financial assistance for this community, it only seems logical that some portion of the $650,000 in fines should go toward helping these people.

It is even more fitting that a town like Haddam should receive some federal assistance, because the federal government is partly responsible for this town's problems. NRC Commissioner Shirley Jackson has stated that the NRC failed to adequately regulate this plant to ensure safety, and stricter monitoring could have prevented a number of the problems that this plant has experienced. A recent GAO report released by Senator LIEBERMAN details the failings of the NRC in overseeing CT Yankee and other plants.

In most every case where a nuclear power plant's negligence prompts a fine by the NRC, the communities surrounding the plant will feel some negative repercussions. Therefore, I believe that a portion of these fines should be available to the affected communities.

While the Distressed Communities Support Act will not solve all of the problems of towns like Haddam, Connecticut, it is a fair and simple initiative that will provide relief to thousands of Americans.

I hope my colleagues will join me in supporting this bill.

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. 960

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

SECTION 1. USE OF PORTION OF CIVIL PENALTY ASSESSED BY THE NUCLEAR REGULATORY COMMISSION TO ASSIST LOCAL COMMUNITIES.

Section 234 of the Atomic Energy Act of 1954 (42 U.S.C. 2282) is amended by adding at the end the following:

''d. USE OF PORTION OF CIVIL PENALTY TO ASSIST LOCAL COMMUNITIES.—In imposing a civil penalty on a person, the Commission may direct the person to pay 50 percent of the amount of the civil penalty to local communities to protect local communities from the adverse economic and other affects of a violation of this Act or of decommissioning of a facility under this Act.''.

By Mr. BOND:

S. 962. A bill to amend the Indian Gaming Regulatory Act with respect to certain gaming practices on tribal lands held in trust by the Secretary of the Interior, and for other purposes; to the Committee on Indian Affairs.

THE GAMBLING CLARIFICATION ACT OF 1997

Mr. BOND. Mr. President, I rise to introduce legislation to reform the Indian Gaming Regulatory Act. There is, as I speak, a tribe that is attempting to move into the State of Missouri to build a large gambling casino. I do not believe the tribe is entitled to build this casino under the Indian gaming law, but while Secretary Babbitt has indicated he would consider our views in making his decision, he may rule in favor of the tribe and those who favor gambling. The only way to reverse his decision would be for Congress to change the law and I plan to start that process now.

As my colleagues know, Mr. President, the Indian Gaming Regulatory Act became law in 1988 to address the rapid growth of gambling on Indian tribal lands. The Supreme Court affirmed the sovereignty of Indian tribes and upheld their right to conduct gambling on their tribal lands, holding that such a right could only be abrogated by an act of Congress. Recognizing that it is the policy of the majority of the States to prohibit or drastically regulate gambling and recognizing that many of the citizens of these States regard gambling as morally repugnant, Congress passed the Indian Gambling Regulatory Act.

The intent of the Indian Gaming Regulatory Act is to balance tribal sovereignty with a State's interest in regulating and controlling gambling. The bill attempted to accomplish this by bringing parties to a mutual table to work out an agreement for regulating gambling on reservations consistent with State policy. But the spirit of the legislation is one of containment, to limit gambling and control its growth. IGRA pursues the objective by narrowly restricting the circumstances by which gaming can be conducted on land acquired by tribes after the date of passage of the statute, October 17, 1988. However, like many pieces of regulation, unforeseen circumstances arise, loopholes open and language proves to be too vague or obtusely drafted. Such is the case with IGRA. My legislation does not attempt to reopen or rewrite the bill, but it does attempt to address some of the legislative voids that affect my State and others.

A first step for a tribe to conduct gaming on Indian land is to petition the Secretary of the Interior to have land taken into trust, this permits the tribe to benefit from the tax advantages afforded Indian tribes. While such trust petitions are under review by the Secretary, he is instructed to review the petition considering the best interests of both the tribe and the surrounding community. Furthermore, while such a petition is under review, elected officials have an opportunity to confront the Secretary with any concerns regarding gambling on that land or any objections that community members may hold regarding gambling. The statute, however, does not require the tribe to declare to the Secretary that land will be used for gambling. Furthermore, there is nothing in the statute that would prohibit a tribe from representing to the local community and the Secretary that land will be used for an unobjectionable purpose, only to begin using the land for gambling after it has been placed in trust.

My legislation will require a tribe that is planning to begin conducting gambling on newly acquired tribal land to inform the Secretary during the trust application process that the land in question will in fact be used for gambling. Tribes with land held in trust that have not made such a declaration to the Secretary will be prohibited from using that land for gambling until such time as the tribe applies with the Secretary to have that land held in trust for the specific purpose of gambling. I believe this language will encourage the tribes to be open and upfront regarding their gambling plans for the trust land and is in the best interests of communities to be affected by gambling and in the best interests of the tribal-community relations. Communities that have serious concerns with the introduction of gambling to their neighborhoods will be given the opportunity to register their concerns with their elected officials and with the Secretary of the Interior. Tribes will also be disinclined to misrepresent their intentions or engage in any deceptive tactics to acquire land to begin or expand their gambling operations, which will go a long way to abating any suspicion between the tribes and the surrounding communities.

This language also clarifies the language regarding tribes in the State of Oklahoma, a State where there is no tribal reservations, attempting to spread their gaming operations into a neighboring State. I believe such a practice was not foreseen by the original statute and is inconsistent with the spirit of that statute. Specifically, my legislation will permit an Oklahoma tribe to expand their gaming operations into a neighboring state, but only when the tribe is located in that State and the gaming will be conducted within the boundaries of a former reservation. My State is confronted with a situation where a tribe has purchased land reaching across the State border into Missouri and the tribe is attempting to use that recently purchased land to claim residency in Missouri for the purpose of the statute. To me, that is exploiting the loose drafting of a statutory language. I do not believe the tribe is located in Missouri as contemplated by the statute and, therefore, is not entitled to bring a casino into this Missouri community over the overwhelming objections of Missourians. My bill will make this section clear.

Finally, the Indian Gaming statute authorizes tribes to conduct gaming on their reservations and other trust lands to the extent that gaming is permitted in that State. Such language is consistent with other Federal law by which tribes are subject to the criminal laws of the State but they are not subject to the regulations of the State. The Missouri constitution prohibits land-based gaming, gaming of this class may only be conducted on floating facilities on the Missouri River or Mississippi River. This prohibition was a popular referendum passed by the people of the State and the State legislature endorsed the objection to land-based gaming in a resolution. My legislation clearly states the Missouri Constitution contains a prohibition on land-based casinos and may not be interpreted in any way to permit class III land-based gaming. I might add that where a State has spoken so clearly—and the State constitution is certainly a clear statement of intent—I find it absurd that outsiders can just come in and do what the local people have said they oppose.

Mr. President, my proposals are not an exhaustive list, but the statute has caused a situation in my State that this legislation will address. I understand that the chairman of the Committee on Indian Affairs will be pursuing a larger package of amendments to address the problems in the gaming laws. I encourage him to do so, I look forward to working with him and I encourage my colleagues to join us in this effort. I want to conclude by reiterating that Federal Indian gambling legislation is intended to control and contain Indian gambling. Unfortunately the legislation is riddled with loopholes that out-of-State gambling interests can exploit through tribes like the Eastern Shawnee to operate gambling parlors. The people of southwest Missouri do not want any kind of casino gambling and I am going to do everything I can do legislatively and through the regulatory process to stop it.

I ask unanimous consent to include a copy of the bill and a brief question and answer in the RECORD.

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

S. 962

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 ''Gaming Clarification Act of 1997''.

SEC. 2. LAND BASED GAMING PROHIBITION OF THE CONSTITUTION OF THE STATE OF MISSOURI.

Section 20(b) of the Indian Gaming Regulatory Act (25 U.S.C. 2719(b)) is amended by adding at the end the following:

''(4) Section 39(e) of article III of the Constitution of the State of Missouri, which authorizes the legislature of the State to permit games of chance only upon the Missouri River or the Mississippi River, conducted on excursion gambling boats and floating facilities—

''(A) is a prohibitory measure; and

''(B) may not be construed to permit land-based class III gaming of any kind for any purpose.''.

SEC. 3. APPLICABILITY OF RESTRICTIONS.

Section 20(b) of the Indian Gaming Regulatory Act (25 U.S.C. 2719(b)), as amended by section 2, is further amended by adding at the end the following:

''(5) Notwithstanding any other provision of this subsection, subsection (a) shall apply to any lands acquired by the Secretary in trust for the benefit of an Indian tribe after the date specified in that subsection, if, at the time of the taking of those lands into trust, those lands are located outside of the State in which the Indian tribe is located.''.

SEC. 4. DECLARATION OF INTENT TO CONDUCT GAMING.

Section 20 of the Indian Gaming Regulatory Act (25 U.S.C. 4719) is amended by adding at the end the following:

''(e) DECLARATION OF INTENT TO CONDUCT GAMING.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, including any other provision of this Act, lands taken into trust for an Indian tribe after the date of enactment of the Gaming Clarification Act of 1997, shall not, for the purposes of this Act, be considered to be Indian lands upon which class II or class III gaming may be conducted in accordance with this Act.

''(2) EXCEPTION.—With respect to trust lands described in paragraph (1) of an Indian tribe, class II or class III gaming may be conducted on those lands in accordance with this Act if—

''(A) the Indian tribe submits an application to the Secretary of the Interior that contains an explicit declaration of the intent of the Indian tribe to conduct gaming on those lands; and

''(B) the Secretary of the Interior, in accordance with procedures established by the Secretary, including reviewing the applicability of subsection (b)(4), approves the declaration contained in the petition.''.

QUESTIONS AND ANSWERS ABOUT SENATOR BOND'S INDIAN GAMBLING LEGISLATION

Why is this legislation needed?

The people of Southwest Missouri and their elected representatives have valiantly fought against the Eastern Shawnee tribes proposed casino project in Seneca. In addition, Creative Gaming International, the gambling company that is working with the tribe to establish the casino, has also purchased land near Branson where they intend to open another casino. At this time the tribe's application to have the Seneca land taken into federal trust is pending with the Secretary of the Interior. While Senator Bond has repeatedly asked Interior Secretary Babbitt to deny the tribe's petition, the outcome is uncertain. Loopholes in the Indian Gaming Regulatory Act (IGRA), the federal legislation that regulates Indian gambling, need to be closed to prevent tribes from locating in states where local citizens oppose gambling.

Will this legislation interfere with the legal action that the State has taken?

Senator Bond did not want to pursue any angle that would interfere with any other efforts taken at the state level to keep the casino out. The Attorney General of Missouri filed suit on August 19, 1996, but filed a motion to dismiss the case on November 18, 1996, which was granted on November 27, 1996. The fact that the case has been dropped means Bond's legislation will not interfere with state efforts to stop the casino.

Is this a fix for Missouri or a change in the gaming statute affecting all tribes?

Both. As the situation in Missouri illustrates, the federal statute intended to control the growth of this sort of gambling is vague, poorly drafted and full of loopholes. The Eastern Shawnee tribe is depending on this vague statute and its loopholes to move into Missouri and open a casino, activities that are directly contrary to the intent of the statute. By focusing on several of the legal loopholes, I believe we can solve the problem facing the State of Missouri and other states whose citizens object to gambling facilities.

Can this legislation pass?

Absolutely. The Senate Committee on Indian Affairs is proceeding with legislation this session to correct many of the defects with the laws governing Indian gambling. Bond has met with the committee chairman, Sen. Ben Nighthorse Campbell, and he is aware of the situation in Missouri. Sen. Campbell has several concerns with the law that are similar to Missouri's and has pledged his cooperation to correct this problem.

Congress sometimes moves slowly; does Bond have an alternative plan?

Through his membership on the Senate Appropriations Committee, Bond is well-situated to add language to the annual Department of Interior Appropriations bill which would prevent the Secretary of the Interior from placing this land into trust.

Hasn't the Eastern Shawnee tribe tried to assure local citizens that they no longer intend to develop a casino site on the Seneca land?

Talk is cheap. The tribe has not amended their petition application with the Department of Interior to reflect the fact that they no longer intend to open a casino. Also, Creative Gaming International, the New Jersey company working with the tribe, noted in a press release just last Friday that they were continuing to pursue ''Native American gaming in southwest Missouri.''

By Mr. CHAFEE (for himself, Mr. GRAHAM, Mrs. BOXER, Mr. BENNETT, Mr. HATCH, and Mr. MOYNIHAN):

S. 963. A bill to establish a transportation credit assistance pilot program, and for other purposes; to the Committee on Environment and Public Works.

THE TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT OF 1997

Mr. CHAFEE. Mr. President, today I am introducing the Transportation Infrastructure Finance and Innovation Act of 1997,—or, TIFIA. The purpose of the bill is to bridge the gap between the Nation's substantial infrastructure needs and limited Federal funds. I am pleased to report that Senators GRAHAM of Florida, BOXER, HATCH, BENNETT, and MOYNIHAN have joined me in cosponsoring this important measure.

I think we can all agree that there is a clear shortfall of public funding to meet the Nation's transportation needs. Our effort to balance the Federal budget only makes the challenge of meeting these critical needs all the more difficult.

The goals of our bill are to offer the sponsors of major transportation projects a new tool to make the most of limited Federal resources, stimulate additional investment in our Nation's infrastructure, and encourage greater private sector participation in meeting our transportation needs.

TIFIA establishes a new Federal credit program for surface transportation. It will provide $800 million in credit assistance over six years to public and private entities, with the purpose of leveraging as much as $16 billion in Federal funds for major transportation projects. In turn, this Federal investment could help leverage total investment in infrastructure from other public and private entities of $40 to $50 billion. Eligible forms of credit assistance available through our proposal include loans, loan guarantees, and lines of credit.

WHAT KINDS OF PROJECTS WOULD QUALIFY FOR THIS ASSISTANCE?

National significance. Projects participating in this program must be determined by the Secretary of Transportation to be ''regionally or nationally'' significant. Projects must enhance the national transportation system, reduce traffic congestion, and protect the environment.

Large projects. This program is targeted at large projects that are difficult, if not impossible, to fund through traditional means such as using a State's annual allocation in the Federal highway program. Projects participating in the program must cost at least 100 million dollars, or 50 percent of a State's most recent annual apportionment of federal-aid highway funds, whichever is less.

Eligibility. The project must be a surface transportation facility eligible for federal assistance—i.e., a highway, transit, passenger rail, or intermodal facility.

State and local support. The project must be included in the State transportation plan and be in the approved State Transportation Improvement Program.

User charges. Projects must be self-financing through user fees or other non-federal revenue sources.

WHY IS THIS PROGRAM NEEDED IN ADDITION TO STATE INFRASTRUCTURE BANKS?

The new credit assistance program will supplement existing Federal programs, such as the State Infrastructure Banks or SIB's. Large projects of national importance are simply too big to be financed by SIB's. As start-up financial institutions, SIB's are limited in the amount of assistance they can provide in the near term. The credit assistance available through TIFIA will help fill this gap in the near term.

WILL THE FEDERAL GOVERNMENT SHOULDER ALL OF THE RISK FOR THESE PROJECTS?

No, under TIFIA, the Federal Government will participate in the new credit assistance program as a minor investor. Our bill limits Federal participation to 33 percent of total project costs.

I want to emphasize that the new credit assistance program established in TIFIA is a limited, six-year pilot program. The ultimate objective of the program is to phase out Federal participation in these large projects and allow private capital investment to take on this function. It is time to try a new approach and see how it works.

The benefits of private sector involvement in this area are enormous. Giving the private sector a larger role will reduce project costs and advance construction schedules. It also will attract much needed private capital, and more equitably distribute risks between public and private sectors.

Now more than ever, we must preserve the strengths of the transportation system we have in place. Yet, we also must anticipate the future, addressing new problems with innovative solutions. This new credit program is just the sort of creative mechanism we should be advancing.

It is my hope that the new credit assistance program in the bill I introduce today will be included as part of the reauthorization of the Intermodal Surface Transportation Efficiency Act. As I have said before, the ISTEA reauthorization process must reach out for ideas on creative ways, like this one, to finance our infrastructure needs. The combination of our nation's transportation infrastructure needs and the significant fiscal constraints at all levels of government make this effort imperative. This measure has the endorsement of the American Road and Transportation Builders Association; PSA, the Bond Market Trade Association; the Internationals Union of Operating Engineers; the Building and Construction Trades Department; and Project America. I urge my colleagues to give this sensible measure their support.

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

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 ''Transportation Infrastructure Finance and Innovation Act of 1997''.

SEC. 2. FINDINGS.

Congress finds that—

(1) a well-developed system of transportation infrastructure is critical to the economic well-being, health, and welfare of the people of the United States;

(2) traditional public funding techniques such as grant programs are unable to keep pace with the infrastructure investment needs of the United States because of budgetary constraints at the Federal, State, and local levels of government;

(3) major transportation infrastructure facilities that address critical national needs, such as intermodal facilities, border crossings, and multistate trade corridors, are of a scale that exceeds the capacity of Federal and State assistance programs in effect on the date of enactment of this Act;

(4) new investment capital can be attracted to infrastructure projects that are capable of generating their own revenue streams through user charges or other dedicated funding sources; and

(5) a Federal credit program for projects of national significance can complement existing funding resources by filling market gaps, thereby leveraging substantial private co-investment.

SEC. 3. DEFINITIONS.

In this Act:

(1) ELIGIBLE PROJECT COSTS.—The term ''eligible project costs'' means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of—

(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

(B) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; and

(C) interest during construction, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

(2) FEDERAL CREDIT INSTRUMENT.—The term ''Federal credit instrument'' means a secured loan, loan guarantee, or line of credit authorized to be made available under this Act with respect to a project.

(3) LENDER.—The term ''lender'' means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

(4) LINE OF CREDIT.—The term ''line of credit'' means an agreement entered into by the Secretary with an obligor under section 6 to provide a direct loan at a future date upon the occurrence of certain events.

(5) LOAN GUARANTEE.—The term ''loan guarantee'' means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(6) LOCAL SERVICER.—The term ''local servicer'' means—

(A) a State infrastructure bank established under title 23, United States Code; or

(B) a State or local government or any agency of a State or local government that is responsible for servicing a Federal credit instrument on behalf of the Secretary.

(7) OBLIGOR.—The term ''obligor'' means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(8) PROJECT.—The term ''project'' means any surface transportation facility eligible for Federal assistance under title 23 or chapter 53 of title 49, United States Code.

(9) PROJECT OBLIGATION.—The term ''project obligation'' means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

(10) SECURED LOAN.—The term ''secured loan'' means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 5.

(11) STATE.—The term ''State'' has the meaning given the term in section 101(a) of title 23, United States Code.

(12) SUBSTANTIAL COMPLETION.—The term ''substantial completion'' means the opening of a project to vehicular or passenger traffic.

SEC. 4. DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION.

(a) ELIGIBILITY.—To be eligible to receive financial assistance under this Act, a project shall meet the following criteria:

(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project—

(A) shall be included in the State transportation plan required under section 135 of title 23, United States Code; and

(B) at such time as an agreement to make available a Federal credit instrument is entered into under this Act, shall be included in the approved State transportation improvement program required under section 134 of that title.

(2) APPLICATION.—A State, a local servicer identified under section 7(a), or the entity undertaking the project shall submit a project application to the Secretary.

(3) ELIGIBLE PROJECT COSTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), to be eligible for assistance under this Act, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

(i) $100,000,000; or

(ii) 50 percent of the amount of Federal-aid highway funds apportioned for the most recently-completed fiscal year under title 23, United States Code, to the State in which the project is located.

(B) INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—In the case of a project involving the installation of an intelligent transportation system, eligible project costs shall be reasonably anticipated to equal or exceed $30,000,000.

(4) DEDICATED REVENUE SOURCES.—Project financing shall be repayable in whole or in part by user charges or other dedicated revenue sources.

(5) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, the project that the entity is undertaking shall be publicly sponsored as provided in paragraphs (1) and (2).

(b) SELECTION AMONG ELIGIBLE PROJECTS.—

(1) ESTABLISHMENT.—The Secretary shall establish criteria for selecting among projects that meet the eligibility criteria specified in subsection (a).

(2) INCLUDED CRITERIA.—The selection criteria shall include the following:

(A) The extent to which the project is nationally or regionally significant, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system. Specific factors determining national significance shall include the extent to which the project—

(i) is part of the National Highway System and related connectors as specified in section 103(b) of title 23, United States Code;

(ii) promotes regional, interstate, or international commerce;

(iii) enables United States manufacturers to deliver their goods to domestic and foreign markets in a more timely, cost-effective manner;

(iv) stimulates new economic activity and job creation;

(v) reduces traffic congestion, thereby increasing workforce productivity; and

(vi) protects and enhances the environment, including by enhancing air quality through the reduction of congestion and decreased fuel and oil consumption.

(B) The creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features, such as a rate covenant, to ensure repayment. The Secretary shall require each project applicant to provide a preliminary rating opinion letter from a nationally recognized bond rating agency.

(C) The extent to which assistance under this Act would foster innovative public-private partnerships and attract private debt or equity investment.

(D) The likelihood that assistance under this Act would enable the project to proceed at an earlier date than the project would otherwise be able to proceed.

(E) The extent to which the project uses new technologies, including intelligent transportation systems, that enhance the efficiency of the project.

(F) The amount of budget authority required to fund the Federal credit instrument made available under this Act.

(c) FEDERAL REQUIREMENTS.—The following provisions of law shall apply to funds made available under this Act and projects assisted with the funds:

(1) Section 113 of title 23, United States Code.

(2) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(3) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(4) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(5) Section 5333 of title 49, United States Code.

SEC. 5. SECURED LOANS.

(a) IN GENERAL.—

(1) AGREEMENTS.—Subject to paragraphs (2) and (3), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which shall be used—

(A) to finance eligible project costs; or

(B) to refinance interim construction financing of eligible project costs;

of any project selected under section 4.

(2) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—A loan under

paragraph (1) shall not refinance interim construction financing under paragraph (1)(B) later than 1 year after the date of substantial completion of the project.

(3) AUTHORIZATION PERIOD.—The Secretary may enter into a loan agreement during any of fiscal years 1998 through 2003.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed 33 percent of the reasonably anticipated eligible project costs.

(3) PAYMENT.—The secured loan—

(A) shall be payable, in whole or in part, from revenues generated by any rate covenant, coverage requirement, or similar security feature supporting the project obligations or from a dedicated revenue stream; and

(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

(4) INTEREST RATE.—The interest rate on the secured loan shall be equal to the yield on marketable United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

(5) MATURITY DATE.—The final maturity date of the secured loan shall be not later than 35 years after the date of substantial completion of the project.

(6) NONSUBORDINATION.—The secured loan shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(7) FEES.—The Secretary may establish fees at a level sufficient to cover the costs to the Federal Government of making a secured loan under this section.

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on the projected cash flow from project revenues and other repayment sources.

(2) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

(4) DEFERRED PAYMENTS.—

(A) AUTHORIZATION.—If, at any time during the 10 years after the date of substantial completion of the project, the project is unable to generate sufficient revenues to pay scheduled principal and interest on the secured loan, the Secretary may, pursuant to established criteria for the project agreed to by the entity undertaking the project and the Secretary, allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

(B) INTEREST.—Any payment deferred under subparagraph (A) shall—

(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

(ii) be scheduled to be amortized over the remaining term of the loan beginning not later than 10 years after the date of substantial completion of the project in accordance with paragraph (1).

(5) PREPAYMENT.—

(A) USE OF EXCESS REVENUES.—Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan without penalty.

(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

(d) SALE OF SECURED LOANS.—As soon as practicable after substantial completion of a project, the Secretary shall sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

(e) LOAN GUARANTEES.—

(1) IN GENERAL.—The Secretary may provide a loan guarantee to a lender in lieu of making a secured loan if the Secretary determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

(2) TERMS.—The terms of a guaranteed loan shall be consistent with the terms set forth in this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary.

SEC. 6. LINES OF CREDIT.

(a) IN GENERAL.—

(1) AGREEMENTS.—The Secretary may enter into agreements to make available lines of credit to 1 or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any project selected under section 4.

(2) USE OF PROCEEDS.—The proceeds of a line of credit made available under this section shall be available to pay debt service on project obligations issued to finance eligible project costs, extraordinary repair and replacement costs, operation and maintenance expenses, and costs associated with unexpected Federal or State environmental restrictions.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A line of credit under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNTS.—

(A) TOTAL AMOUNT.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.

(B) ONE-YEAR DRAWS.—The amount drawn in any 1 year shall not exceed 20 percent of the total amount of the line of credit.

(3) DRAWS.—Any draw on the line of credit shall represent a direct loan and shall be made only if net revenues from the project (including capitalized interest, any debt service reserve fund, and any other available reserve) are insufficient to pay debt service on project obligations.

(4) INTEREST RATE.—The interest rate on a direct loan resulting from a draw on the line of credit shall be equal to the yield on 30-year marketable United States Treasury securities as of the date on which the line of credit is obligated.

(5) SECURITY.—The line of credit—

(A) shall be made available only in connection with a project obligation secured, in whole or in part, by a rate covenant, coverage requirement, or similar security feature or from a dedicated revenue stream; and

(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

(6) PERIOD OF AVAILABILITY.—The line of credit shall be available during the period beginning on the date of substantial completion of the project and ending not later than 10 years after that date.

(7) RIGHTS OF THIRD PARTY CREDITORS.—

(A) AGAINST FEDERAL GOVERNMENT.—A third party creditor of the obligor shall not have any right against the Federal Government with respect to any draw on the line of credit.

(B) ASSIGNMENT.—An obligor may assign the line of credit to 1 or more lenders or to a trustee on the lenders' behalf.

(8) NONSUBORDINATION.—A direct loan under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(9) FEES.—The Secretary may establish fees at a level sufficient to cover the costs to the Federal Government of providing a line of credit under this section.

(10) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—A line of credit under this section shall not be issued for a project with respect to which another Federal credit instrument under this Act is made available.

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each direct loan under this section based on the projected cash flow from project revenues and other repayment sources.

(2) TIMING.—All scheduled repayments of principal or interest on a direct loan under this section shall commence not later than 5 years after substantial completion of the project and be fully repaid, with interest, by the date that is 20 years after the end of the period of availability specified in subsection (b)(6).

(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

SEC. 7. PROJECT SERVICING.

(a) REQUIREMENT.—The State in which a project that receives financial assistance under this Act is located may identify a local servicer to assist the Secretary in servicing the Federal credit instrument made available under this Act.

(b) AGENCY; FEES.—If a State identifies a local servicer under subsection (a), the local servicer—

(1) shall act as the agent for the Secretary; and

(2) may receive a servicing fee, subject to approval by the Secretary.

(c) LIABILITY.—A local servicer identified under subsection (a) shall not be liable for the obligations of the obligor to the Secretary or any lender.

(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.

SEC. 8. OFFICE OF INFRASTRUCTURE FINANCE.

(a) DUTIES OF THE SECRETARY.—Section 301 of title 49, United States Code, is amended—

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(9) develop and coordinate Federal policy on financing transportation infrastructure, including the provision of direct Federal credit assistance and other techniques used to leverage Federal transportation funds.''.

(b) OFFICE OF INFRASTRUCTURE FINANCE.—

(1) IN GENERAL.—Chapter 1 of title 49, United States Code, is amended by adding at the end the following:

"§ 113. Office of Infrastructure Finance

''(a) ESTABLISHMENT.—The Secretary of Transportation shall establish within the Office of the Secretary an Office of Infrastructure Finance.

''(b) DIRECTOR.—The Office shall be headed by a Director who shall be appointed by the Secretary not later than 180 days after the date of enactment of this section.

''(c) FUNCTIONS.—The Director shall be responsible for—

''(1) carrying out the responsibilities of the Secretary described in section 301(9);

''(2) carrying out research on financing transportation infrastructure, including educational programs and other initiatives to support Federal, State, and local government efforts; and

''(3) providing technical assistance to Federal, State, and local government agencies and officials to facilitate the development and use of alternative techniques for financing transportation infrastructure.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 49, United States Code, is amended by adding at the end the following:

''113. Office of Infrastructure Finance.''.

SEC. 9. STATE AND LOCAL PERMITS.

The provision of financial assistance under this Act with respect to a project shall not—

(1) relieve any recipient of the assistance of any obligation to obtain any required State or local permit or approval with respect to the project;

(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project.

SEC. 10. REGULATIONS.

The Secretary may issue such regulations as the Secretary determines appropriate to carry out this Act and the amendments made by this Act.

SEC. 11. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this Act—

(A) $40,000,000 for fiscal year 1998;

(B) $60,000,000 for fiscal year 1999;

(C) $100,000,000 for fiscal year 2000;

(D) $150,000,000 for fiscal year 2001;

(E) $200,000,000 for fiscal year 2002; and

(F) $250,000,000 for fiscal year 2003.

(2) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

(b) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this Act shall be deemed to be acceptance by the United States of a contractual obligation to fund the Federal credit instrument.

(c) LIMITATIONS ON CREDIT AMOUNTS.—For each of fiscal years 1998 through 2003, principal amounts of Federal credit instruments made available under this Act shall be limited to the amounts specified in the following table:

Fiscal year:	Maximum amount of credit:
1998	$800,000,000
1999	$1,200,000,000
2000	$2,000,000,000
2001	$3,000,000,000
2002	$4,000,000,000
2003	$5,000,000,000.

SEC. 12. REPORT TO CONGRESS.

Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under this Act, including a recommendation as to whether the objectives of this Act are best served—

(1) by continuing the program under the authority of the Secretary;

(2) by establishing a Government corporation or Government-sponsored enterprise to administer the program; or

(3) by phasing out the program and relying on the capital markets to fund the types of infrastructure investments assisted by this Act without Federal participation.

THE TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT OF 1997

SEC. 1. SHORT TITLE; TABLE OF CONTENTS

This section identifies a new Federal credit assistance program for surface transportation facilities as the Transportation Infrastructure Finance and Innovation Act of 1997.

SEC. 2. FINDINGS

This section recites Congressional findings that a comprehensive surface transportation infrastructure system is crucial to the economic health of the Nation. Traditional methods of funding transportation projects, including Federal grants, are insufficient to meet the Nation's infrastructure investment needs. The funding gap is particularly acute for large projects of National significance, due to their scale and complexity. A new Federal credit program for transportation will help address these projects' special needs by supplementing existing Federal programs and leveraging private debt and equity capital.

This bill is designed to provide an initial infusion of Federal credit assistance over the next six years to facilitate the development of large, capital-intensive infrastructure facilities through public-private partnerships, consisting of a State or local governmental project sponsor and one of more private sector firms involved in the design, construction or operation of the facility. The Federal credit program is oriented to those projects which have the potential to be self-supporting from user charges or other non-Federal dedicated funding sources. The program is structured to fill to specific market gaps through Federal participation as a minority investor. The ultimate objective is to phase out Federal participation and encourage private capital investment to fulfill this function.

The program should result in additional surface transportation facilities being developed more quickly and at a lower cost than would be the case under conventional public procurement, funding and ownership.

SEC. 3. DEFINITIONS

This section sets forth the definitions for terms used in this title. The key terms are listed below:

A ''Project'' is defined as any surface transportation facility eligible under the provisions of title 23 as well as chapter 53 of title 49, United States Code. Permitted projects would include free or tolled highways, bridges and tunnels; mass transportation facilities and vehicles; commuter and inter-city rail passenger facilities and vehicles; intermodal passenger terminals; and intermodal freight and port facilities (excluding privately-owned rail rolling stock).

The term ''Eligible Project Costs'' is defined to include those costs of a capital nature incurred by a sponsor in connection with developing an infrastructure project. These costs fall into three categories: (I) preconstruction costs relating to planning, design, and securing governmental permits and approvals; (ii) hard costs relating to the design and construction (or rehabilitation) of a project; and (iii) related soft costs associated with the financing of the project, such as interest during construction, reserve accounts, and issuance expenses. It would not include operation or maintenance costs.

An ''Obligor'' is defined as any entity (whether a State or local governmental unit or agency, a private entity authorized by such governmental unit to develop a project, or a public-private partnership) that is a borrower involving a secured loan, loan guarantee, or line of credit under this title.

A ''Local Servicer'' is defined as a state infrastructure bank or other designated State or local governmental agency which may service the credit program on behalf of the Department of Transportation within that State.

''Substantial Completion'' is defined as the date when a project opens to vehicular, passenger, or freight traffic.

Other definitions specify types of lenders, project obligations, and Federal credit instruments—including secured loans, loan guarantees, and lines of credit.

SEC. 4. DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION

This section defines the threshold eligibility criteria for a project to receive Federal credit assistance and outlines the basis upon which the Secretary will select among potential candidates. The Secretary's determination of a project's eligibility will be based on both quantitative and qualitative factors.

To ensure that the project enjoys both State and local support the project must be included in the State's plan and program and, if the project is in a metropolitan area, it must satisfy all metropolitan planning requirements of 23 U.S.C. 134. The State or State-designated entity will be responsible for forwarding the project application to the Secretary.

In terms of size, the project must be reasonably anticipated to cost at least $100 million or an amount equal to 50 percent of a State's annual Federal-aid highway apportionments, whichever is less. This two-fold test is designed to allow small and rural States to accommodate projects otherwise too large for their transportation programs. Based on FY 1997 apportionments, eighteen States could qualify projects costing less than $100 million, with the minimum allocation equaling approximately $40 million.

An exception to this size threshold would be projects involving the installation of intelligent transportation systems, which would need to cost at least $30 million.

In addition, a project must be supported at least in part by user charges, to encourage the development of new revenue streams and the participation by the private sector.

Project applicants meeting the threshold eligibility criteria then will be evaluated by the Secretary based on a number of factors. Of prime importance, the project must be deemed by the Secretary to be ''nationally or regionally significant'' in terms of facilitating the movement of people and goods in a more efficient and cost-effective manner, resulting in significant economic benefits. Among the other factors which the Secretary will take into account are: the likelihood that the Federal assistance will enable the project to proceed at an earlier date; the degree to which the project leverages non-Federal resources, including private sector capital; and its overall creditworthiness.

This section also provides that all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), the Uniform Relocation Assistance and

Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.), and section 5333 of title 49 and section 113 of title 23, United States Code (relating to wage protections), shall apply to funds made available under this title and projects assisted with such funds.

SEC. 5. SECURED LOANS

This section establishes a temporary lending program whereby the Secretary may make direct Federal loans in fiscal years 1998 through 2003 to demonstrate to the capital markets the viability of making transportation infrastructure investments where returns depend on excess project cash flows. It is intended to help the capital markets develop the capability to replace the role of the Federal government by the end of the authorization period in helping finance the costs of large projects of national significance. The loans are contemplated to be made up front as combined construction and permanent financing, although the title allows the Federal loan to be made up to a year after construction is completed for those projects that have arranged interim construction financing.

A secured loan could be in an amount up to 33 percent of the reasonably anticipated cost of a project, and could have a final maturity as long as 35 years after the date the project opens (substantial completion). The interest rate would be established at the time the loan agreement was executed, and would equal the prevailing yield on comparable term U.S. Treasury bonds. Loan repayments would be required to start within five years after the date of substantial completion and are payable from user fees or dedicated revenue streams.

The terms and conditions of each loan would be negotiated between the Secretary and the borrower, and would allow a lien on project revenue subject to a lien securing other project debt. In the event of default and bankruptcy, insolvency or liquidation of the obligor, the loan is not subordinated to the claims of any other lender. A key feature would allow the Secretary, for a period up to 10 years following project completion, to defer principal and interest payments should project revenues prove insufficient. Any deferred payments during this ''ramp-up'' period would accrue with interest, and this amount will be amortized over the remaining term of the loan. Such a flexible payment schedule (allowing for deferrals during the project's ramp-up phase) should assist the project in obtaining an ''investment grade'' bond rating (that is, BBB or higher) on its capital markets indebtedness. Excess revenues or proceeds of refinancing from non-Federal funding sources could be used to prepay the secured loans without penalty.

The Secretary is to determine whether a secured loan can be sold to another entity or reoffered into the capital markets on favorable terms as soon as possible after substantial completion.

In lien of funding secured loans directly, the Secretary may provide loan guarantees to lenders, provided the budgetary cost based on credit-worthiness is similar. This feature is designed to attract voluntary investment from pension funds and other institutional investors. Guaranteed loans would not be permitted to be issued on a tax-exempt basis.

SEC. 6. LINES OF CREDIT

This section authorizes the Secretary to enter into agreements to make direct loans to projects at future dates upon certain conditions occurring. Such agreement would be in the form of a standby line of credit.

In contrast to a secured loan provided under section 5, the line of credit would not be for the purpose of funding construction costs as part of the project's initial capitalization. Rather, the line of credit would be drawn upon if needed to pay debt service and other project expenses (such as extraordinary repair and replacement, or operation and maintenance) during the critical ''ramp-up'' period after the facility has opened. The line is designed to facilitate project sponsors' access private capital by assisting them in obtaining investment grade ratings on their debt.

It is intended that the financial institutions such as bond insurers will develop the capability to replace this temporary role of the Federal government in providing lines of credit for large transportation infrastructure projects by the end of the authorization period.

The secured loans and the line of credit are intended to address projects with different financial needs based on their pro-forma capital structures. The secured loans will be most attractive to those projects that must demonstrate to private lenders or capital markets debt investors that there is adequate coverage ''going in'' based on maximum annual debt service, and where the cost of the Federal loan compares favorably with the cost of other borrowing alternatives. A line of credit is more likely to be used by projects that are able to issue capital markets debt on favorable terms with an ascending debt service pattern, but need to demonstrate access to contingent sources of capital to support such debt service in the event revenues fail to grow as quickly as annual payments of principal and interest.

This section sets forth various limitations on the availability of draws on a line of credit. A draw on the line will represent a direct loan. A line of credit could only be drawn upon after the project had used up other available revenues and reserves, and it could only be accessed for a period of up to 10 years after a project had been substantially completed.

The total amount of draws could not exceed 33 percent of reasonably anticipated eligible project costs, as is the case with secured loans. The borrower could draw down up to 20 percent of the line of credit each year (i.e., the entire amount could be drawn down during the first five years of a ten year credit line, if needed.)

Any draws would need to be fully repaid, with interest, within 20 years of the end of the 10-year availability period following substantial completion of the project. The interest rate for any draw would be established at the time the line of credit agreement was entered into, at a rate equal to the then-prevailing yield on 30 year U.S. Treasury bonds. The repayment of the draw would be secured in a manner similar to the secured loan.

To avoid ''double-dipping,'' a borrower could not combine a line of credit with a secured loan for any given project.

SEC. 7. PROJECT SERVICING

The program will use State or local governmental agencies to assist the Secretary in servicing each credit instrument. The State may designate its State infrastructure bank or some other public agency to serve as the local servicing agent for the credit instrument.

The local servicing agent would function as a financing conduit, much like a mortgage company, and with the Secretary's approval it could charge a servicing fee. It would not be financially liable in any way for the credit provided; rather, it would assist in the disbursement and collection of funds. It is required that the local servicing agent set up a separate account from its other activities to receive the Federal credit proceeds for disbursal to the borrower, and to receive loan repayments for remittance to the Secretary.

SEC. 8. OFFICE OF INFRASTRUCTURE FINANCE

The Secretary will establish an Office of Infrastructure Finance to manage the credit program and provide related technical and educational assistance.

Program guidelines will be established by the Secretary in order to ensure the program operates prudently and efficiently, including requiring obligors to provide annual audits.

SEC. 9. STATE AND LOCAL PERMITS

This section states that this title in no way supersedes any existing State or local laws, regulations, or project approval requirements.

SEC. 10. FUNDING

This section provides contract authority to fund the budgetary or subsidy costs of the Federal credit instruments provided. (Subsidy costs, which are defined in and required to be funded by budget authority under the Federal Credit Reform Act of 1990, represent the present value of expected cash flows for each credit instrument, taking into account the default risk as well as any interest rate subsidy. Since this title requires all secured loans to be made at rate equal to the comparable term U.S. Treasury rate, there will be no interest subsidy element.) The contract authority would remain available until expended, and would be paid out of the highway account of the Highway Trust Fund.

The section also establishes a limit each year on the maximum amount of credit assistance that may be offered under this title.

Fiscal year	Budget (contract) authority	Nominal credit limit
1998	$40,000,000	$800,000,000
1999	$60,000,000	$1,200,000,000
2000	$100,000,000	$2,000,000,000
2001	$150,000,000	$3,000,000,000
2002	$200,000,000	$4,000,000,000
2003	$250,000,000	$5,000,000,000

SEC. 110. REPORT TO CONGRESS

This section requires the Secretary to summarize the activities and results of the assistance programs and mechanisms provided under this title, including whether they are succeeding in encourage the private capital markets to invest in large transportation infrastructure projects. The report shall be made within four years of enactment of the title and include recommendations on whether the programs should be continued or phased out by the end of the authorization period as planned.

Mrs. BOXER. Mr. President, I would like to ask the distinguished Senator from Rhode Island, Senator CHAFEE, who is the chairman of the Senate Committee on Environment and Public Works, on which I am pleased to serve,

a question about his proposed Transportation Finance and Innovation Act.

Mr. CHAFEE. I will be pleased to yield to a question from my California colleague.

Mrs. BOXER. I thank the Senator. I also want to thank the Chairman for his support for a number of critical transportation projects in California and in particular, the Alameda Transportation Corridor project. As the Chairman knows, he supported my efforts to designate the Corridor a High Priority Corridor in the National Highway System Designation Act of 1995. That in turn led President Clinton to include in his fiscal year 1997 budget request funding to support a $400 million direct Federal loan for the project, which was approved by Congress last year.

As Senator CHAFEE, knows, California has major need for transportation investment due in large part to the tremendous increase in international trade flowing through the state. While this trade has helped bring California out of the economic recession earlier this decade, it has also placed tremendous strain on our infrastructure. No where is this more apparent than at our border with Mexico. Unfortunately, after the implementation of the North American Free Trade Agreement, the Federal Government provided no special assistance to the border States to deal with the expected doubling of commercial truck traffic through these border trade corridors. As the Senator knows from his recent tour of the area, narrow rural highways or city streets are being expected to carry heavy, continuous commercial truck traffic.

In response to this need, I introduced the Border Infrastructure, Safety and Congestion Relief Act. A section of my bill would provide Federal funds to state infrastructure banks or authorities to finance border improvement projects. We know that some projects could be financed more efficiently under partnerships with the private sector. I understand Senator CHAFEE's bill on Transportation Finance and Innovation would provide an infusion of Federal credit assistance over the next six years to help construct large, high-cost infrastructure facilities. My question for the Chairman is this, would border crossing facilities and trade corridors be eligible for this type of Federal financing under your bill?

Mr. CHAFEE. The Senator is correct. Through the efforts of Senator BOXER, I have become aware of the need for border infrastructure investment and of her own legislation which has been referred to our committee. The Transportation Finance and Innovation Act embraces the innovative finance objectives of the Boxer bill. Border crossing facilities and multi-State trade corridors are clearly eligible and the selection criteria specifically includes those projects which promote international commerce. This bill will enable United States manufacturers to deliver their goods to domestic and foreign markets in a more timely, and cost-effective manner.

Mrs. BOXER. I thank the Chairman. I am proud to be an original cosponsor of the Transportation Finance and Innovation Act. Several projects in California could benefit potentially from this legislation, not only in the border region but with the Alameda Corridor project in Los Angeles and the Bay Area Rapid Transit extension to San Francisco International Airport. I appreciate Senator CHAFEE's hard work and vision to present new innovations and ideas on financing transportation investments needed to keep our economy competitive in the world.

Mr. GRAHAM. Mr. President, I am pleased to join my colleague from Rhode Island—the distinguished chairman of the Senate Environment and Public Works Committee—in the introduction of an initiative to help address our nation's infrastructure needs. Our initiative aims to harness the resources and energies of the public and the private sectors, and have them work in concert to ensure that a 21st century America has a modern system of roads, highways, and other critical public works assets. We are calling this new partnership the Transportation Infrastructure Finance and Innovation Act of 1997—TIFIA.

Mr. President, the numbers paint a stark and disturbing picture of the state of our nation's infrastructure. A survey of our nation's community water system estimated that a minimum of $138.4 billion are needed over a 20 year period for the purposes of installing, upgrading, or replacing water mains, pipes, and processing facilities. Houston Mayor Bob Lanier, Chairman of the Rebuild America Coalition, reports that ''57 percent of highway pavement in all but a handful of states is in poor or mediocre condition; in some of the most populous regions, the figure is as high as 70%.'' The U.S. Department of Transportation estimates that our nation must invest an additional $33 billion in surface transportation in order to stay ahead of future growth, congestion, and development. We are also faced with 187,000 structurally deficient and functionally obsolete bridges. According to the Federal Highway Administration, a minimum of $8.2 billion is required to improve and correct bridge conditions.

In addition to these needs, we are faced with the important and challenging task of balancing the federal budget in order to preserve the health and prosperity of future generations of Americans. In order to achieve this goal and still meet our nation's infrastructure needs, our actions must be a combination of traditional as well as new and innovative means of financing.

Specifically, I believe that we need to do the following: First, we need to provide for a more efficient use of resources going to improve and develop our nation's infrastructure. We need to better utilize cost-saving tools and techniques so that we can stretch our nation's public investment dollars as far as possible in this time of limited federal funds. Second, we need to raise the level of traditional resources so that states will have a larger pool of dollars, including federal dollars, available for infrastructure development. Third, we need to attract and facilitate new and innovative financing sources, such as private investment. By fostering greater private-public partnerships, we can provide additional funding resources for states and communities. Finally, we need to develop and support innovative construction and financing mechanisms, such as State Infrastructure Banks (SIBs) and the legislation we are introducing today, TIFIA.

In the face of declining federal investment in infrastructure amidst tight fiscal constraints, TIFIA enables communities and states to utilize creative methods for addressing our nation's infrastructure needs. TIFIA would provide $800 million in federal credit assistance for major transportation infrastructure projects costing in excess of $100 million. The legislation provides a model in which states could use federal loans to develop large projects that have the potential to be self-supporting.

Projects which would be candidates for receiving assistance under this program include: The Western Extension of the George Bush Freeway in Texas; the Broken Arrow Expressway in Oklahoma; the widening of US Highway 219 in New York; the Interstate 15 rebuilding project in Utah; the Border Infrastructure project in Southern California; and the Florida High Speed Rail.

In my state of Florida, the state's Department of Transportation is proposing the Florida High Speed Rail project, which would connect the major metropolitan areas of Miami, Orlando, and Tampa, and be the first true high speed rail line in our nation. Japan and nations in Europe have already made major progress in high speed rail transportation—but this progress has been contingent on support from their national governments. TIFIA could provide important credit support for such projects of national significance.

Creative financing for infrastructure development is crucial as we enter the 21st century and are confronted with the extensive needs which can only be addressed through new and visionary approaches. In this Congress, we are scheduled to reauthorize both the Clean Water Act and ISTEA, the Intermodal Surface Transportation Efficiency Act, which governs our nation's highway system—two major infrastructure bills which address pressing needs that affect the daily lives of citizens nationwide.

As we focus on these two major bills, it is my hope that we will take steps to improve the state of our nation's public works system in a substantial and effective manner. TIFIA should be used as one model for taking these steps using a creative private-public financing approach. In fact, it is my hope

that this legislation will be incorporated into ISTEA.

We should create new partnerships which will help us to meet current and future needs while acknowledging the limited resources available to us in this fiscal environment. If we are to rebuild our nation's infrastructure, and lay the groundwork for the next generation of transportation infrastructure, we will need to develop innovative financing programs such as TIFIA.

It is my hope that after we complete the Highway Program bill—with the inclusion of TIFIA as an innovative financing title—we will develop similar mechanisms for addressing the financing requirements of other major public works needs such as clean water systems and perhaps even school construction.

We should heed the wisdom found in the words of Daniel Burnham, a prominent architect who served as chairman of a commission charged with redeveloping the District of Columbia, ''Think no small ideas. Small ideas have no magic to stir men's minds.'' Let us use this bill as the starting point from which to make a serious and substantial dent in our national development needs.

Mr. President, I thank the Chairman for his leadership in this area and look forward to working closely with him as we work to pass this bill and reauthorize the Highway Program.

ADDITIONAL COSPONSORS

S. 364

At the request of Mr. LIEBERMAN, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 364, a bill to provide legal standards and procedures for suppliers of raw materials and component parts for medical devices.

S. 387

At the request of Mr. HATCH, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 387, a bill to amend the Internal Revenue Code of 1986 to provide equity to exports of software.

S. 492

At the request of Mr. SARBANES, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 492, a bill to amend certain provisions of title 5, United States Code, in order to ensure equality between Federal firefighters and other employees in the civil service and other public sector firefighters, and for other purposes.

S. 496

At the request of Mr. CHAFEE, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 496, a bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax to individuals who rehabilitate historic homes or who are the first purchasers of rehabilitated historic homes for use as a principal residence.

S. 507

At the request of Mr. HATCH, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 507, a bill to establish the United States Patent and Trademark Organization as a Government corporation, to amend the provisions of title 35, United States Code, relating to procedures for patent applications, commercial use of patents, reexamination reform, and for other purposes.

S. 551

At the request of Mr. GREGG, the names of the Senator from Ohio [Mr. DEWINE] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 551, a bill to amend the Occupational Safety and Health Act of 1970 to make modifications to certain provisions.

S. 682

At the request of Mr. HARKIN, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 682, a bill to amend title 32, United States Code, to make available not less than $200,000,000 each fiscal year for funding of activities under National Guard drug interdiction and counterdrug activities plans.

S. 755

At the request of Mr. CAMPBELL, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 755, a bill to amend title 10, United States Code, to restore the provisions of chapter 76 of that title (relating to missing persons] as in effect before the amendments made by the National Defense Authorization Act for Fiscal Year 1997 and to make other improvements to that chapter.

S. 872

At the request of Mr. ROBERTS, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 872, a bill to amend the Internal Revenue Code of 1986 to provide for the nonrecognition of gain for sale of stock to certain farmers' cooperatives, and for other purposes.

SENATE JOINT RESOLUTION 6

At the request of Mr. KYL, the names of the Senator from New Hampshire [Mr. GREGG], the Senator from Nebraska [Mr. HAGEL], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of Senate Joint Resolution 6, a joint resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

SENATE RESOLUTION 94

At the request of Mr. WARNER, the names of the Senator from Montana [Mr. BURNS], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of Senate Resolution 94, a resolution commending the American Medical Association on its 150th anniversary, its 150 years of caring for the United States, and its continuing effort to uphold the principles upon which Nathan Davis, M.D. and his colleagues founded the American Medical Association to ''promote the science and art of medicine and the betterment of public health.''

AMENDMENT NO. 469

At the request of Mr. SPECTER the names of the Senator from Pennsylvania [Mr. SANTORUM], the Senator from Maine [Ms. SNOWE], the Senator from Maine [Ms. COLLINS], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of amendment No. 469 proposed to S. 947, an original bill to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 471

At the request of Mr. SPECTER the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of amendment No. 471 proposed to S. 947, an original bill to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 492

At the request of Mr. KENNEDY the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of amendment No. 492 proposed to S. 947, an original bill to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 498

At the request of Mr. HARKIN the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from Massachusetts [Mr. KERRY], the Senator from Arkansas [Mr. BUMPERS], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of amendment No. 498 proposed to S. 947, an original bill to provide for reconciliation pursuant to section 104(a) of the concurrent resolution on the budget for fiscal year 1998.

At the request of Mr. DOMENICI his name, and the name of the Senator from Missouri [Mr. BOND] were added as cosponsors of amendment No. 498 proposed to S. 947, supra.

SENATE RESOLUTION 103—TO CONGRATULATE THE CHICAGO BULLS

Ms. MOSELEY-BRAUN (for herself and Mr. DURBIN) submitted the following resolution; which was considered and agreed to:

S. RES. 103

Whereas the Chicago Bulls at 69–13, posted the second best regular season record in the history of the National Basketball Association;

Whereas the Bulls once again roared through the playoffs, sweeping the Washington Bullets and defeating the Atlanta Hawks in 5 games, before beating the Miami Heat in 5 games to return to the NBA Finals for the second straight year;

Whereas the Bulls displayed a potent offense and stifling defense throughout the playoffs before beating the Utah Jazz to win their second consecutive NBA championship, their fifth in the last 7 years;

Whereas head coach Phil Jackson and the entire coaching staff skillfully led the Bulls through a 69-win season and a 15–4 playoff run;

Whereas Michael Jordan and Scottie Pippen were again named to the NBA's ''All-