

112TH CONGRESS
2^D SESSION

H. R. 4348

IN THE SENATE OF THE UNITED STATES

APRIL 19, 2012

Received

AN ACT

To provide an extension of Federal-aid highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a multiyear law reauthorizing such programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 SECTION 1. TABLE OF CONTENTS.

2 The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—SURFACE TRANSPORTATION EXTENSION

Sec. 101. Short title.

Subtitle A—Federal-Aid Highways

Sec. 111. Extension of Federal-aid highway programs.

Subtitle B—Extension of Highway Safety Programs

Sec. 121. Extension of National Highway Traffic Safety Administration highway safety programs.

Sec. 122. Extension of Federal Motor Carrier Safety Administration programs.

Sec. 123. Additional programs.

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Sec. 131. Allocation of funds for planning programs.

Sec. 132. Special rule for urbanized area formula grants.

Sec. 133. Allocating amounts for capital investment grants.

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TITLE II—KEYSTONE XL PIPELINE

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Sec. 202. Restriction.

Sec. 203. Permit.

Sec. 204. Relation to other law.

TITLE III—RESTORE ACT

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TITLE IV—HARBOR MAINTENANCE PROGRAMS

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TITLE V—COAL COMBUSTION RESIDUALS

Sec. 501. Highway and infrastructure safety through the protection of coal combustion residual recycling.

TITLE VI—ENVIRONMENTAL STREAMLINING

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- Sec. 602. Declaration of policy.
- Sec. 603. Exemption in emergencies.
- Sec. 604. Advance acquisition of real property interests.
- Sec. 605. Standards.
- Sec. 606. Letting of contracts.
- Sec. 607. Elimination of duplication in historic preservation requirements.
- Sec. 608. Funding threshold.
- Sec. 609. Efficient environmental reviews for project decisionmaking.
- Sec. 610. Disposal of historic properties.
- Sec. 611. Integration of planning and environmental review.
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- Sec. 615. Program for eliminating duplication of environmental reviews.
- Sec. 616. State performance of legal sufficiency reviews.
- Sec. 617. Categorical exclusions.
- Sec. 618. Environmental review process deadline.
- Sec. 619. Relocation assistance.

1 **TITLE I—SURFACE**
 2 **TRANSPORTATION EXTENSION**

3 **SEC. 101. SHORT TITLE.**

4 This title may be cited as the “Surface Transpor-
 5 tation Extension Act of 2012, Part II”.

6 **Subtitle A—Federal-Aid Highways**

7 **SEC. 111. EXTENSION OF FEDERAL-AID HIGHWAY PRO-**
 8 **GRAMS.**

9 (a) IN GENERAL.—Section 111 of the Surface Trans-
 10 portation Extension Act of 2011, Part II (Public Law
 11 112–30; 125 Stat. 343) is amended—

12 (1) by striking “the period beginning on Octo-
 13 ber 1, 2011, and ending on June 30, 2012,” each
 14 place it appears and inserting “fiscal year 2012”;

15 (2) by striking “ $\frac{3}{4}$ of” each place it appears;
 16 and

1 (3) in subsection (a) by striking “June 30,
2 2012” and inserting “September 30, 2012”.

3 (b) USE OF FUNDS.—Section 111(c) of the Surface
4 Transportation Extension Act of 2011, Part II (125 Stat.
5 343) is amended—

6 (1) in paragraph (3)—

7 (A) in subparagraph (A) by striking “, ex-
8 cept that during such period” and all that fol-
9 lows before the period at the end; and

10 (B) in subparagraph (B)(ii) by striking
11 “\$479,250,000” and inserting “\$639,000,000”;
12 and

13 (2) by striking paragraph (4).

14 (c) EXTENSION OF AUTHORIZATIONS UNDER TITLE
15 V OF SAFETEA-LU.—Section 111(e)(2) of the Surface
16 Transportation Extension Act of 2011, Part II (125 Stat.
17 343) is amended by striking “the period beginning on Oc-
18 tober 1, 2011, and ending on June 30, 2012.” and insert-
19 ing “fiscal year 2012.”.

20 (d) ADMINISTRATIVE EXPENSES.—Section 112(a) of
21 the Surface Transportation Extension Act of 2011, Part
22 II (125 Stat. 346) is amended by striking “\$294,641,438
23 for the period beginning on October 1, 2011, and ending
24 on June 30, 2012.” and inserting “\$392,855,250 for fiscal
25 year 2012.”.

1 **Subtitle B—Extension of Highway**
2 **Safety Programs**

3 **SEC. 121. EXTENSION OF NATIONAL HIGHWAY TRAFFIC**
4 **SAFETY ADMINISTRATION HIGHWAY SAFETY**
5 **PROGRAMS.**

6 (a) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Sec-
7 tion 2001(a)(1) of SAFETEA–LU (119 Stat. 1519) is
8 amended by striking “\$235,000,000 for each of fiscal
9 years 2009 through 2011” and all that follows through
10 the period at the end and inserting “and \$235,000,000
11 for each of fiscal years 2009 through 2012.”.

12 (b) HIGHWAY SAFETY RESEARCH AND DEVELOP-
13 MENT.—Section 2001(a)(2) of SAFETEA–LU (119 Stat.
14 1519) is amended by striking “and \$81,183,000 for the
15 period beginning on October 1, 2011, and ending on June
16 30, 2012.” and inserting “and \$105,500,000 for fiscal
17 year 2012.”.

18 (c) OCCUPANT PROTECTION INCENTIVE GRANTS.—
19 Section 2001(a)(3) of SAFETEA–LU (119 Stat. 1519)
20 is amended by striking “, \$25,000,000 for each of fiscal
21 years 2006 through 2011” and all that follows through
22 the period at the end and inserting “and \$25,000,000 for
23 each of fiscal years 2006 through 2012.”.

24 (d) SAFETY BELT PERFORMANCE GRANTS.—Section
25 2001(a)(4) of SAFETEA–LU (119 Stat. 1519) is amend-

1 ed by striking “and \$36,375,000 for the period beginning
2 on October 1, 2011, and ending on June 30, 2012.” and
3 inserting “and \$48,500,000 for fiscal year 2012.”.

4 (e) STATE TRAFFIC SAFETY INFORMATION SYSTEM
5 IMPROVEMENTS.—Section 2001(a)(5) of SAFETEA–LU
6 (119 Stat. 1519) is amended by striking “for each of fiscal
7 years 2006 through 2011” and all that follows through
8 the period at the end and inserting “for each of fiscal
9 years 2006 through 2012.”.

10 (f) ALCOHOL-IMPAIRED DRIVING COUNTER-
11 MEASURES INCENTIVE GRANT PROGRAM.—Section
12 2001(a)(6) of SAFETEA–LU (119 Stat. 1519) is amend-
13 ed by striking “\$139,000,000 for each of fiscal years fiscal
14 years 2009 through 2011” and all that follows through
15 the period at the end and inserting “and \$139,000,000
16 for each of fiscal years 2009 through 2012.”.

17 (g) NATIONAL DRIVER REGISTER.—Section
18 2001(a)(7) of SAFETEA–LU (119 Stat. 1520) is amend-
19 ed by striking “and \$3,087,000 for the period beginning
20 on October 1, 2011, and ending on June 30, 2012.” and
21 inserting “and \$4,000,000 for fiscal year 2012.”.

22 (h) HIGH VISIBILITY ENFORCEMENT PROGRAM.—
23 Section 2001(a)(8) of SAFETEA–LU (119 Stat. 1520)
24 is amended by striking “for each of fiscal years 2006
25 through 2011” and all that follows through the period at

1 the end and inserting “for each of fiscal years 2006
2 through 2012.”.

3 (i) MOTORCYCLIST SAFETY.—Section 2001(a)(9) of
4 SAFETEA–LU (119 Stat. 1520) is amended by striking
5 “\$7,000,000 for each of fiscal years 2009 through 2011”
6 and all that follows through the period at the end and
7 inserting “and \$7,000,000 for each of fiscal years 2009
8 through 2012.”.

9 (j) CHILD SAFETY AND CHILD BOOSTER SEAT SAFE-
10 TY INCENTIVE GRANTS.—Section 2001(a)(10) of
11 SAFETEA–LU (119 Stat. 1520) is amended by striking
12 “\$7,000,000 for each of fiscal years 2009 through 2011”
13 and all that follows through the period at the end and
14 inserting “and \$7,000,000 for each of fiscal years 2009
15 through 2012.”.

16 (k) ADMINISTRATIVE EXPENSES.—Section
17 2001(a)(11) of SAFETEA–LU (119 Stat. 1520) is
18 amended by striking “\$25,328,000 for fiscal year 2011”
19 and all that follows through the period at the end and
20 inserting “and \$25,328,000 for each of fiscal years 2011
21 and 2012.”.

1 **SEC. 122. EXTENSION OF FEDERAL MOTOR CARRIER SAFE-**
2 **TY ADMINISTRATION PROGRAMS.**

3 (a) **MOTOR CARRIER SAFETY GRANTS.**—Section
4 31104(a)(8) of title 49, United States Code, is amended
5 to read as follows:

6 “(8) \$212,000,000 for fiscal year 2012.”.

7 (b) **ADMINISTRATIVE EXPENSES.**—

8 (1) **IN GENERAL.**—Section 31104(i)(1)(H) of
9 title 49, United States Code, is amended to read as
10 follows:

11 “(H) \$244,144,000 for fiscal year 2012.”.

12 (2) **TECHNICAL CORRECTION.**—Section
13 31104(i)(1)(F) of title 49, United States Code, is
14 amended to read as follows:

15 “(F) \$239,828,000 for fiscal year 2010;”.

16 (c) **GRANT PROGRAMS.**—Section 4101(c) of
17 SAFETEA-LU (119 Stat. 1715) is amended—

18 (1) in paragraph (1) by striking “and
19 \$22,500,000 for the period beginning on October 1,
20 2011, and ending on June 30, 2012.” and inserting
21 “and \$30,000,000 for fiscal year 2012.”;

22 (2) in paragraph (2) by striking “2011 and
23 \$24,000,000 for the period beginning on October 1,
24 2011, and ending on June 30, 2012.” and inserting
25 “2012.”;

1 (3) in paragraph (3) by striking “2011 and
2 \$3,750,000 for the period beginning on October 1,
3 2011, and ending on June 30, 2012.” and inserting
4 “2012.”;

5 (4) in paragraph (4) by striking “2011 and
6 \$18,750,000 for the period beginning on October 1,
7 2011, and ending on June 30, 2012.” and inserting
8 “2012.”; and

9 (5) in paragraph (5) by striking “2011 and
10 \$2,250,000 for the period beginning on October 1,
11 2011, and ending on June 30, 2012.” and inserting
12 “2012.”.

13 (d) HIGH-PRIORITY ACTIVITIES.—Section
14 31104(k)(2) of title 49, United States Code, is amended
15 by striking “2011 and \$11,250,000 for the period begin-
16 ning on October 1, 2011, and ending on June 30, 2012,”
17 and inserting “2012”.

18 (e) NEW ENTRANT AUDITS.—Section
19 31144(g)(5)(B) of title 49, United States Code, is amend-
20 ed by striking “and up to \$21,750,000 for the period be-
21 ginning on October 1, 2011, and ending on June 30,
22 2012,”.

23 (f) OUTREACH AND EDUCATION.—Section 4127(e) of
24 SAFETEA-LU (119 Stat. 1741) is amended by striking
25 “and 2011 (and \$750,000 to the Federal Motor Carrier

1 Safety Administration, and \$2,250,000 to the National
2 Highway Traffic Safety Administration, for the period be-
3 ginning on October 1, 2011, and ending on June 30,
4 2012)” and inserting “2011, and 2012”.

5 (g) GRANT PROGRAM FOR COMMERCIAL MOTOR VE-
6 HICLE OPERATORS.—Section 4134(c) of SAFETEA-LU
7 (119 Stat. 1744) is amended by striking “2011 and
8 \$750,000 for the period beginning on October 1, 2011,
9 and ending on June 30, 2012,” and inserting “2012”.

10 (h) MOTOR CARRIER SAFETY ADVISORY COM-
11 MITTEE.—Section 4144(d) of SAFETEA-LU (119 Stat.
12 1748) is amended by striking “June 30, 2012” and insert-
13 ing “September 30, 2012”.

14 (i) WORKING GROUP FOR DEVELOPMENT OF PRAC-
15 TICES AND PROCEDURES TO ENHANCE FEDERAL-STATE
16 RELATIONS.—Section 4213(d) of SAFETEA-LU (49
17 U.S.C. 14710 note; 119 Stat. 1759) is amended by strik-
18 ing “June 30, 2012” and inserting “September 30,
19 2012”.

20 **SEC. 123. ADDITIONAL PROGRAMS.**

21 (a) HAZARDOUS MATERIALS RESEARCH
22 PROJECTS.—Section 7131(e) of SAFETEA-LU (119
23 Stat. 1910) is amended by striking “and \$870,000 for the
24 period beginning on October 1, 2011, and ending on June

1 30, 2012,” and inserting “and \$1,160,000 for fiscal year
2 2012”.

3 (b) DINGELL-JOHNSON SPORT FISH RESTORATION
4 ACT.—Section 4 of the Dingell-Johnson Sport Fish Res-
5 toration Act (16 U.S.C. 777c) is amended—

6 (1) in subsection (a) by striking “2011 and for
7 the period beginning on October 1, 2011, and ending
8 on June 30, 2012,” and inserting “2012,”; and

9 (2) in the first sentence of subsection (b)(1)(A)
10 by striking “2011 and for the period beginning on
11 October 1, 2011, and ending on June 30, 2012,”
12 and inserting “2012,”.

13 **Subtitle C—Public Transportation** 14 **Programs**

15 **SEC. 131. ALLOCATION OF FUNDS FOR PLANNING PRO-** 16 **GRAMS.**

17 Section 5305(g) of title 49, United States Code, is
18 amended by striking “2011 and for the period beginning
19 on October 1, 2011, and ending on June 30, 2012” and
20 inserting “2012”.

21 **SEC. 132. SPECIAL RULE FOR URBANIZED AREA FORMULA** 22 **GRANTS.**

23 Section 5307(b)(2) of title 49, United States Code,
24 is amended—

1 (1) by striking the paragraph heading and in-
2 sserting “SPECIAL RULE FOR FISCAL YEARS 2005
3 THROUGH 2012.—”;

4 (2) in subparagraph (A) by striking “2011 and
5 the period beginning on October 1, 2011, and ending
6 on June 30, 2012,” and inserting “2012,”; and

7 (3) in subparagraph (E)—

8 (A) by striking the subparagraph heading
9 and inserting “MAXIMUM AMOUNTS IN FISCAL
10 YEARS 2008 THROUGH 2012.—”; and

11 (B) in the matter preceding clause (i) by
12 striking “2011 and during the period beginning
13 on October 1, 2011, and ending on June 30,
14 2012” and inserting “2012”.

15 **SEC. 133. ALLOCATING AMOUNTS FOR CAPITAL INVEST-**
16 **MENT GRANTS.**

17 Section 5309(m) of title 49, United States Code, is
18 amended—

19 (1) in paragraph (2)—

20 (A) by striking the paragraph heading and
21 inserting “FISCAL YEARS 2006 THROUGH
22 2012.—”;

23 (B) in the matter preceding subparagraph

24 (A) by striking “2011 and the period beginning

1 on October 1, 2011, and ending on June 30,
2 2012,” and inserting “2012”; and

3 (C) in subparagraph (A)(i) by striking
4 “2011 and \$150,000,000 for the period begin-
5 ning on October 1, 2011, and ending on June
6 30, 2012,” and inserting “2012”;

7 (2) in paragraph (6)—

8 (A) in subparagraph (B) by striking “2011
9 and \$11,250,000 shall be available for the pe-
10 riod beginning on October 1, 2011, and ending
11 on June 30, 2012,” and inserting “2012”; and

12 (B) in subparagraph (C) by striking
13 “though 2011 and \$3,750,000 shall be available
14 for the period beginning on October 1, 2011,
15 and ending on June 30, 2012,” and inserting
16 “through 2012”; and

17 (3) in paragraph (7)—

18 (A) in subparagraph (A)—

19 (i) in the matter preceding clause

20 (i)—

21 (I) in the first sentence by strik-
22 ing “2011 and \$7,500,000 shall be
23 available for the period beginning on
24 October 1, 2011, and ending on June
25 30, 2012,” and inserting “2012”; and

1 (II) in the second sentence by in-
2 serting “each fiscal year” before the
3 colon;

4 (ii) in clause (i) by striking “for each
5 fiscal year and \$1,875,000 for the period
6 beginning on October 1, 2011, and ending
7 on June 30, 2012,”;

8 (iii) in clause (ii) by striking “for each
9 fiscal year and \$1,875,000 for the period
10 beginning on October 1, 2011, and ending
11 on June 30, 2012,”;

12 (iv) in clause (iii) by striking “for
13 each fiscal year and \$750,000 for the pe-
14 riod beginning on October 1, 2011, and
15 ending on June 30, 2012,”;

16 (v) in clause (iv) by striking “for each
17 fiscal year and \$750,000 for the period be-
18 ginning on October 1, 2011, and ending on
19 June 30, 2012,”;

20 (vi) in clause (v) by striking “for each
21 fiscal year and \$750,000 for the period be-
22 ginning on October 1, 2011, and ending on
23 June 30, 2012,”;

24 (vii) in clause (vi) by striking “for
25 each fiscal year and \$750,000 for the pe-

1 riod beginning on October 1, 2011, and
2 ending on June 30, 2012.”;

3 (viii) in clause (vii) by striking “for
4 each fiscal year and \$487,500 for the pe-
5 riod beginning on October 1, 2011, and
6 ending on June 30, 2012.”; and

7 (ix) in clause (viii) by striking “for
8 each fiscal year and \$262,500 for the pe-
9 riod beginning on October 1, 2011, and
10 ending on June 30, 2012.”;

11 (B) in subparagraph (B) by striking clause
12 (vii) and inserting the following:

13 “(vii) \$13,500,000 for fiscal year
14 2012.”;

15 (C) in subparagraph (C) by striking “and
16 during the period beginning on October 1,
17 2011, and ending on June 30, 2012.”;

18 (D) in subparagraph (D) by striking “and
19 not less than \$26,250,000 shall be available for
20 the period beginning on October 1, 2011, and
21 ending on June 30, 2012.”; and

22 (E) in subparagraph (E) by striking “and
23 \$2,250,000 shall be available for the period be-
24 ginning on October 1, 2011, and ending on
25 June 30, 2012.”.

1 **SEC. 134. APPORTIONMENT OF FORMULA GRANTS FOR**
2 **OTHER THAN URBANIZED AREAS.**

3 Section 5311(c)(1)(G) of title 49, United States
4 Code, is amended to read as follows:

5 “(G) \$15,000,000 for fiscal year 2012.”.

6 **SEC. 135. APPORTIONMENT BASED ON FIXED GUIDEWAY**
7 **FACTORS.**

8 Section 5337 of title 49, United States Code, is
9 amended by striking subsection (g).

10 **SEC. 136. AUTHORIZATIONS FOR PUBLIC TRANSPOR-**
11 **TATION.**

12 (a) FORMULA AND BUS GRANTS.—Section 5338(b)
13 of title 49, United States Code, is amended—

14 (1) in paragraph (1) by striking subparagraph
15 (G) and inserting the following:

16 “(G) \$8,360,565,000 for fiscal year
17 2012.”; and

18 (2) in paragraph (2)—

19 (A) in subparagraph (A) by striking
20 “\$113,500,000 for each of fiscal years 2009
21 through 2011, and \$85,125,000 for the period
22 beginning on October 1, 2011, and ending on
23 June 30, 2012,” and inserting “and
24 \$113,500,000 for each of fiscal years 2009
25 through 2012”;

1 (B) in subparagraph (B) by striking
2 “\$4,160,365,000 for each of fiscal years 2009
3 through 2011, and \$3,120,273,750 for the pe-
4 riod beginning on October 1, 2011, and ending
5 on June 30, 2012,” and inserting “and
6 \$4,160,365,000 for each of fiscal years 2009
7 through 2012”;

8 (C) in subparagraph (C) by striking
9 “\$51,500,000 for each of fiscal years 2009
10 through 2011, and \$38,625,000 for the period
11 beginning on October 1, 2011, and ending on
12 June 30, 2012,” and inserting “and
13 \$51,500,000 for each of fiscal years 2009
14 through 2012”;

15 (D) in subparagraph (D) by striking
16 “\$1,666,500,000 for each of fiscal years 2009
17 through 2011, and \$1,249,875,000 for the pe-
18 riod beginning on October 1, 2011, and ending
19 on June 30, 2012,” and inserting “and
20 \$1,666,500,000 for each of fiscal years 2009
21 through 2012”;

22 (E) in subparagraph (E) by striking
23 “\$984,000,000 for each of fiscal years 2009
24 through 2011, and \$738,000,000 for the period
25 beginning on October 1, 2011, and ending on

1 June 30, 2012,” and inserting “and
2 \$984,000,000 for each of fiscal years 2009
3 through 2012”;

4 (F) in subparagraph (F) by striking
5 “\$133,500,000 for each of fiscal years 2009
6 through 2011, and \$100,125,000 for the period
7 beginning on October 1, 2011, and ending on
8 June 30, 2012,” and inserting “and
9 \$133,500,000 for each of fiscal years 2009
10 through 2012”;

11 (G) in subparagraph (G) by striking
12 “\$465,000,000 for each of fiscal years 2009
13 through 2011, and \$348,750,000 for the period
14 beginning on October 1, 2011, and ending on
15 June 30, 2012,” and inserting “and
16 \$465,000,000 for each of fiscal years 2009
17 through 2012”;

18 (H) in subparagraph (H) by striking
19 “\$164,500,000 for each of fiscal years 2009
20 through 2011, and \$123,375,000 for the period
21 beginning on October 1, 2011, and ending on
22 June 30, 2012,” and inserting “and
23 \$164,500,000 for each of fiscal years 2009
24 through 2012”;

1 (I) in subparagraph (I) by striking
2 “\$92,500,000 for each of fiscal years 2009
3 through 2011, and \$69,375,000 for the period
4 beginning on October 1, 2011, and ending on
5 June 30, 2012,” and inserting “and
6 \$92,500,000 for each of fiscal years 2009
7 through 2012”;

8 (J) in subparagraph (J) by striking
9 “\$26,900,000 for each of fiscal years 2009
10 through 2011, and \$20,175,000 for the period
11 beginning on October 1, 2011, and ending on
12 June 30, 2012,” and inserting “and
13 \$26,900,000 for each of fiscal years 2009
14 through 2012”;

15 (K) in subparagraph (K) by striking “for
16 each of fiscal years 2006 through 2011 and
17 \$2,625,000 for the period beginning on October
18 1, 2011, and ending on June 30, 2012,” and
19 inserting “for each of fiscal years 2006 through
20 2012”;

21 (L) in subparagraph (L) by striking “for
22 each of fiscal years 2006 through 2011 and
23 \$18,750,000 for the period beginning on Octo-
24 ber 1, 2011, and ending on June 30, 2012,”

1 and inserting “for each of fiscal years 2006
2 through 2012”;

3 (M) in subparagraph (M) by striking
4 “\$465,000,000 for each of fiscal years 2009
5 through 2011, and \$348,750,000 for the period
6 beginning on October 1, 2011, and ending on
7 June 30, 2012,” and inserting “and
8 \$465,000,000 for each of fiscal years 2009
9 through 2012”; and

10 (N) in subparagraph (N) by striking
11 “\$8,800,000 for each of fiscal years 2009
12 through 2011, and \$6,600,000 for the period
13 beginning on October 1, 2011, and ending on
14 June 30, 2012,” and inserting “and \$8,800,000
15 for each of fiscal years 2009 through 2012”.

16 (b) CAPITAL INVESTMENT GRANTS.—Section
17 5338(c)(7) of title 49, United States Code, is amended
18 to read as follows:

19 “(7) \$1,955,000,000 for fiscal year 2012.”.

20 (c) RESEARCH AND UNIVERSITY RESEARCH CEN-
21 TERS.—Section 5338(d) of title 49, United States Code,
22 is amended—

23 (1) in paragraph (1), in the matter preceding
24 subparagraph (A), by striking “through 2011, and
25 \$33,000,000 for the period beginning on October 1,

1 2011, and ending on June 30, 2012,” and inserting
2 “through 2011, and \$44,000,000 for fiscal year
3 2012,”; and

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

6 “(3) ADDITIONAL AUTHORIZATIONS.—

7 “(A) RESEARCH.—Of amounts authorized
8 to be appropriated under paragraph (1) for fis-
9 cal year 2012, the Secretary shall allocate for
10 each of the activities and projects described in
11 subparagraphs (A) through (F) of paragraph
12 (1) an amount equal to 63 percent of the
13 amount allocated for fiscal year 2009 under
14 each such subparagraph.

15 “(B) UNIVERSITY CENTERS PROGRAM.—

16 “(i) FISCAL YEAR 2012.—Of the
17 amounts allocated under subparagraph
18 (A)(i) for the university centers program
19 under section 5506 for fiscal year 2012,
20 the Secretary shall allocate for each pro-
21 gram described in clauses (i) through (iii)
22 and (v) through (viii) of paragraph (2)(A)
23 an amount equal to 63 percent of the
24 amount allocated for fiscal year 2009
25 under each such clause.

1 “(ii) FUNDING.—If the Secretary de-
2 termines that a project or activity de-
3 scribed in paragraph (2) received sufficient
4 funds in fiscal year 2011, or a previous fis-
5 cal year, to carry out the purpose for
6 which the project or activity was author-
7 ized, the Secretary may not allocate any
8 amounts under clause (i) for the project or
9 activity for fiscal year 2012 or any subse-
10 quent fiscal year.”.

11 (d) ADMINISTRATION.—Section 5338(e)(7) of title
12 49, United States Code, is amended to read as follows:

13 “(7) \$98,713,000 for fiscal year 2012.”.

14 **SEC. 137. AMENDMENTS TO SAFETEA-LU.**

15 (a) CONTRACTED PARATRANSIT PILOT.—Section
16 3009(i)(1) of SAFETEA-LU (119 Stat. 1572) is amend-
17 ed by striking “2011 and the period beginning on October
18 1, 2011, and ending on June 30, 2012,” and inserting
19 “2012”.

20 (b) PUBLIC-PRIVATE PARTNERSHIP PILOT PRO-
21 GRAM.—Section 3011 of SAFETEA-LU (49 U.S.C. 5309
22 note; 119 Stat. 1588) is amended—

23 (1) in subsection (c)(5) by striking “2011 and
24 the period beginning on October 1, 2011, and ending
25 on June 30, 2012” and inserting “2012”; and

1 (2) in the second sentence of subsection (d) by
2 striking “2011 and the period beginning on October
3 1, 2011, and ending on June 30, 2012,” and insert-
4 ing “2012”.

5 (c) ELDERLY INDIVIDUALS AND INDIVIDUALS WITH
6 DISABILITIES PILOT PROGRAM.—Section 3012(b)(8) of
7 SAFETEA-LU (49 U.S.C. 5310 note; 119 Stat. 1593)
8 is amended by striking “June 30, 2012” and inserting
9 “September 30, 2012”.

10 (d) OBLIGATION CEILING.—Section 3040(8) of
11 SAFETEA-LU (119 Stat. 1639) is amended to read as
12 follows:

13 “(8) \$10,458,278,000 for fiscal year 2012, of
14 which not more than \$8,360,565,000 shall be from
15 the Mass Transit Account.”.

16 (e) PROJECT AUTHORIZATIONS FOR NEW FIXED
17 GUIDEWAY CAPITAL PROJECTS.—Section 3043 of
18 SAFETEA-LU (119 Stat. 1640) is amended—

19 (1) in subsection (b), in the matter preceding
20 paragraph (1), by striking “2011 and the period be-
21 ginning on October 1, 2011, and ending on June 30,
22 2012,” and inserting “2012”; and

23 (2) in subsection (c), in the matter preceding
24 paragraph (1), by striking “2011 and the period be-

1 ginning on October 1, 2011, and ending on June 30,
2 2012,” and inserting “2012”.

3 (f) ALLOCATIONS FOR NATIONAL RESEARCH AND
4 TECHNOLOGY PROGRAMS.—Section 3046 of SAFETEA-
5 LU (49 U.S.C. 5338 note; 119 Stat. 1706) is amended—

6 (1) in subsection (b) by striking “fiscal year or
7 period” and inserting “fiscal year”; and

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

10 “(2) for fiscal year 2012, in amounts equal to
11 63 percent of the amounts allocated for fiscal year
12 2009 under each of paragraphs (2), (3), (5), and (8)
13 through (25) of subsection (a).”.

14 **Subtitle D—Highway Trust Fund** 15 **Extension**

16 **SEC. 141. EXTENSION OF HIGHWAY-RELATED TAXES.**

17 (a) IN GENERAL.—

18 (1) Each of the following provisions of the In-
19 ternal Revenue Code of 1986 is amended by striking
20 “June 30, 2012” and inserting “September 30,
21 2012”:

22 (A) Section 4041(a)(1)(C)(iii)(I).

23 (B) Section 4041(m)(1)(B).

24 (C) Section 4081(d)(1).

1 (2) Each of the following provisions of such
2 Code is amended by striking “July 1, 2012” and in-
3 sserting “October 1, 2012”:

4 (A) Section 4041(m)(1)(A).

5 (B) Section 4051(c).

6 (C) Section 4071(d).

7 (D) Section 4081(d)(3).

8 (b) FLOOR STOCKS REFUNDS.—Section 6412(a)(1)
9 of such Code is amended—

10 (1) by striking “July 1, 2012” each place it ap-
11 pears and inserting “October 1, 2012”;

12 (2) by striking “December 31, 2012” each
13 place it appears and inserting “March 31, 2013”;
14 and

15 (3) by striking “October 1, 2012” and inserting
16 “January 1, 2013”.

17 (c) EXTENSION OF CERTAIN EXEMPTIONS.—Sec-
18 tions 4221(a) and 4483(i) of such Code are each amended
19 by striking “July 1, 2012” and inserting “October 1,
20 2012”.

21 (d) EXTENSION OF TRANSFERS OF CERTAIN
22 TAXES.—

23 (1) IN GENERAL.—Section 9503 of such Code
24 is amended—

25 (A) in subsection (b)—

1 (i) by striking “July 1, 2012” each
2 place it appears in paragraphs (1) and (2)
3 and inserting “October 1, 2012”;

4 (ii) by striking “JULY 1, 2012” in the
5 heading of paragraph (2) and inserting
6 “OCTOBER 1, 2012”;

7 (iii) by striking “June 30, 2012” in
8 paragraph (2) and inserting “September
9 30, 2012”; and

10 (iv) by striking “April 1, 2013” in
11 paragraph (2) and inserting “July 1,
12 2013”; and

13 (B) in subsection (c)(2), by striking “April
14 1, 2013” and inserting “July 1, 2013”.

15 (2) MOTORBOAT AND SMALL-ENGINE FUEL TAX
16 TRANSFERS.—

17 (A) IN GENERAL.—Paragraphs (3)(A)(i)
18 and (4)(A) of section 9503(c) of such Code are
19 each amended by striking “July 1, 2012” and
20 inserting “October 1, 2012”.

21 (B) CONFORMING AMENDMENTS TO LAND
22 AND WATER CONSERVATION FUND.—Section
23 201(b) of the Land and Water Conservation
24 Fund Act of 1965 (16 U.S.C. 460l–11(b)) is
25 amended—

1 (i) by striking “July 1, 2013” each
2 place it appears and inserting “October 1,
3 2013”; and

4 (ii) by striking “July 1, 2012” and in-
5 sserting “October 1, 2012”.

6 (e) TECHNICAL CORRECTION.—Paragraph (4) of sec-
7 tion 4482(c) of such Code is amended to read as follows:

8 “(4) TAXABLE PERIOD.—The term ‘taxable pe-
9 riod’ means any year beginning before July 1, 2013,
10 and the period which begins on July 1, 2013, and
11 ends at the close of September 30, 2013.”.

12 (f) EFFECTIVE DATE.—

13 (1) IN GENERAL.—Except as provided in para-
14 graph (2), the amendments made by this section
15 shall take effect on July 1, 2012.

16 (2) TECHNICAL CORRECTION.—The amendment
17 made by subsection (e) shall take effect as if in-
18 cluded in section 402 of the Surface Transportation
19 Extension Act of 2012.

20 **SEC. 142. EXTENSION OF TRUST FUND EXPENDITURE AU-**
21 **THORITY.**

22 (a) HIGHWAY TRUST FUND.—Section 9503 of the
23 Internal Revenue Code of 1986 is amended—

1 (1) by striking “July 1, 2012” in subsections
2 (b)(6)(B), (c)(1), and (e)(3) and inserting “October
3 1, 2012”; and

4 (2) by striking “Surface Transportation Exten-
5 sion Act of 2012” in subsections (c)(1) and (e)(3)
6 and inserting “Surface Transportation Extension
7 Act of 2012, Part II”.

8 (b) SPORT FISH RESTORATION AND BOATING TRUST
9 FUND.—Section 9504 of such Code is amended—

10 (1) by striking “Surface Transportation Exten-
11 sion Act of 2012” each place it appears in sub-
12 section (b)(2) and inserting “Surface Transportation
13 Extension Act of 2012, Part II”; and

14 (2) by striking “July 1, 2012” in subsection
15 (d)(2) and inserting “October 1, 2012”.

16 (c) LEAKING UNDERGROUND STORAGE TANK TRUST
17 FUND.—Paragraph (2) of section 9508(e) of such Code
18 is amended by striking “July 1, 2012” and inserting “Oc-
19 tober 1, 2012”.

20 (d) EFFECTIVE DATE.—The amendments made by
21 this section shall take effect on July 1, 2012.

1 **TITLE II—KEYSTONE XL**
2 **PIPELINE**

3 **SEC. 201. SHORT TITLE.**

4 This title may be cited as the “North American En-
5 ergy Access Act”.

6 **SEC. 202. RESTRICTION.**

7 (a) IN GENERAL.—No person may construct, oper-
8 ate, or maintain the oil pipeline and related facilities de-
9 scribed in subsection (b) except in accordance with a per-
10 mit issued under this title.

11 (b) PIPELINE.—The pipeline and related facilities re-
12 ferred to in subsection (a) are those described in the Final
13 Environmental Impact Statement for the Keystone XL
14 Pipeline Project issued by the Department of State on Au-
15 gust 26, 2011, including any modified version of that pipe-
16 line and related facilities.

17 **SEC. 203. PERMIT.**

18 (a) ISSUANCE.—

19 (1) BY FERC.—The Federal Energy Regulatory
20 Commission shall, not later than 30 days after re-
21 ceipt of an application therefor, issue a permit with-
22 out additional conditions for the construction, oper-
23 ation, and maintenance of the oil pipeline and re-
24 lated facilities described in section 202(b), to be im-
25 plemented in accordance with the terms of the Final

1 Environmental Impact Statement described in sec-
2 tion 202(b). The Commission shall not be required
3 to prepare a Record of Decision under section
4 1505.2 of title 40 of the Code of Federal Regula-
5 tions with respect to issuance of the permit provided
6 for in this section.

7 (2) ISSUANCE IN ABSENCE OF FERC ACTION.—
8 If the Federal Energy Regulatory Commission has
9 not acted on an application for a permit described
10 in paragraph (1) within 30 days after receiving such
11 application, the permit shall be deemed to have been
12 issued under this title upon the expiration of such
13 30-day period.

14 (b) MODIFICATION.—

15 (1) IN GENERAL.—The applicant for or holder
16 of a permit described in subsection (a) may make a
17 substantial modification to the pipeline route or any
18 other term of the Final Environmental Impact
19 Statement described in section 202(b) only with the
20 approval of the Federal Energy Regulatory Commis-
21 sion. The Commission shall expedite consideration of
22 any such modification proposal.

23 (2) NEBRASKA MODIFICATION.—Within 30
24 days after the date of enactment of this Act, the
25 Federal Energy Regulatory Commission shall enter

1 into a memorandum of understanding with the State
2 of Nebraska for an effective and timely review under
3 the National Environmental Policy Act of 1969 of
4 any modification to the proposed pipeline route in
5 Nebraska as proposed by the applicant for the per-
6 mit described in subsection (a). Not later than 30
7 days after receiving approval of such proposed modi-
8 fication from the Governor of Nebraska, the Com-
9 mission shall complete consideration of and approve
10 such modification.

11 (3) ISSUANCE IN ABSENCE OF FERC ACTION.—
12 If the Federal Energy Regulatory Commission has
13 not acted on an application for approval of a modi-
14 fication described in paragraph (2) within 30 days
15 after receiving such application, such modification
16 shall be deemed to have been issued under this title
17 upon expiration of the 30-day period.

18 (4) CONSTRUCTION DURING CONSIDERATION OF
19 NEBRASKA MODIFICATION.—While any modification
20 of the proposed pipeline route in Nebraska is under
21 consideration pursuant to paragraph (2), the holder
22 of the permit issued under subsection (a) may com-
23 mence or continue with construction of any portion
24 of the pipeline and related facilities described in sec-
25 tion 202(b) that is not within the State of Nebraska.

1 (c) NATIONAL ENVIRONMENTAL POLICY ACT OF
2 1969.—Except for actions taken under subsection (b)(1),
3 the actions taken pursuant to this title shall be taken with-
4 out further action under the National Environmental Pol-
5 icy Act of 1969 (42 U.S.C. 4321 et seq.).

6 **SEC. 204. RELATION TO OTHER LAW.**

7 (a) GENERAL RULE.—Notwithstanding Executive
8 Order No. 13337 (3 U.S.C. 301 note), Executive Order
9 No. 11423 (3 U.S.C. 301 note), section 301 of title 3,
10 United States Code, and any other Executive order or pro-
11 vision of law, no presidential permits shall be required for
12 the construction, operation, and maintenance of the pipe-
13 line and related facilities described in section 202(b) of
14 this Act.

15 (b) APPLICABILITY.—Nothing in this title shall affect
16 the application to the pipeline and related facilities de-
17 scribed in section 202(b) of—

18 (1) chapter 601 of title 49, United States Code;

19 or

20 (2) the authority of the Federal Energy Regu-
21 latory Commission to regulate oil pipeline rates and
22 services.

23 (c) FINAL ENVIRONMENTAL IMPACT STATEMENT.—
24 The final environmental impact statement issued by the
25 Secretary of State on August 26, 2011, shall be considered

1 to satisfy all requirements of the National Environmental
2 Policy Act of 1969 (42 U.S.C. 4321 et seq.).

3 **TITLE III—RESTORE ACT**

4 **SEC. 301. SHORT TITLE.**

5 This title may be cited as the “Resources and Eco-
6 systems Sustainability, Tourist Opportunities, and Re-
7 vived Economies of the Gulf Coast States Act of 2012”.

8 **SEC. 302. GULF COAST RESTORATION TRUST FUND.**

9 (a) **ESTABLISHMENT.**—There is established in the
10 Treasury of the United States a trust fund to be known
11 as the “Gulf Coast Restoration Trust Fund” (referred to
12 in this section as the “Trust Fund”), consisting of such
13 amounts as are deposited in the Trust Fund under this
14 section or any other provision of law.

15 (b) **TRANSFERS.**—The Secretary of the Treasury
16 shall deposit in the Trust Fund an amount equal to 80
17 percent of all administrative and civil penalties paid by
18 responsible parties after the date of enactment of this title
19 in connection with the explosion on, and sinking of, the
20 mobile offshore drilling unit Deepwater Horizon pursuant
21 to a court order, negotiated settlement, or other instru-
22 ment in accordance with section 311 of the Federal Water
23 Pollution Control Act (33 U.S.C. 1321).

24 (c) **EXPENDITURES.**—Amounts in the Trust Fund,
25 including interest earned on advances to the Trust Fund

1 and proceeds from investment under subsection (d), shall
2 be available, pursuant to a future Act of Congress enacted
3 after the date of enactment of this Act—

4 (1) for expenditure to restore the Gulf Coast re-
5 gion from the Deepwater Horizon oil spill for under-
6 taking projects and programs in the Gulf Coast re-
7 gion that would restore and protect the natural re-
8 sources, ecosystems, fisheries, marine and wildlife
9 habitats, beaches, coastal wetlands, and economy of
10 the Gulf Coast region; and

11 (2) solely to Gulf Coast States and coastal po-
12 litical subdivisions to restore the ecosystems and
13 economy of the Gulf Coast region.

14 (d) INVESTMENT.—Amounts in the Trust Fund shall
15 be invested in accordance with section 9702 of title 31,
16 United States Code, and any interest on, and proceeds
17 from, any such investment shall be available for expendi-
18 ture in accordance with this section.

19 (e) DEFINITIONS.—In this section:

20 (1) COASTAL POLITICAL SUBDIVISION.—The
21 term “coastal political subdivision” means any local
22 political jurisdiction that is immediately below the
23 State level of government, including a county, par-
24 ish, or borough, with a coastline that is contiguous

1 with any portion of the United States Gulf of Mex-
2 ico.

3 (2) DEEPWATER HORIZON OIL SPILL.—The
4 term “Deepwater Horizon oil spill” means the blow-
5 out and explosion of the mobile offshore drilling unit
6 Deepwater Horizon that occurred on April 20, 2010,
7 and resulting hydrocarbon releases into the environ-
8 ment.

9 (3) GULF COAST REGION.—The term “Gulf
10 Coast region” means—

11 (A) in the Gulf Coast States, the coastal
12 zones (as that term is defined in section 304 of
13 the Coastal Zone Management Act of 1972 (16
14 U.S.C. 1453)) that border the Gulf of Mexico;

15 (B) any adjacent land, water, and water-
16 sheds, that are within 25 miles of those coastal
17 zones of the Gulf Coast States; and

18 (C) all Federal waters in the Gulf of Mex-
19 ico.

20 (4) GULF COAST STATE.—The term “Gulf
21 Coast State” means any of the States of Alabama,
22 Florida, Louisiana, Mississippi, and Texas.

1 **TITLE IV—HARBOR**
2 **MAINTENANCE PROGRAMS**

3 **SEC. 401. FUNDING FOR HARBOR MAINTENANCE PRO-**
4 **GRAMS.**

5 (a) HARBOR MAINTENANCE TRUST FUND GUAR-
6 ANTEE.—

7 (1) IN GENERAL.—The total budget resources
8 for a fiscal year shall be equal to the level of receipts
9 for harbor maintenance for that fiscal year. Such
10 amounts shall be used only for harbor maintenance
11 programs.

12 (2) GUARANTEE.—No funds may be appro-
13 priated for harbor maintenance programs unless the
14 amount under paragraph (1) has been provided for
15 all such programs.

16 (b) DEFINITIONS.—In this section, the following defi-
17 nitions apply:

18 (1) HARBOR MAINTENANCE PROGRAMS.—The
19 term “harbor maintenance programs” means ex-
20 penditures under section 9505(c)(1) of the Internal
21 Revenue Code of 1986 (relating to expenditures
22 from the Harbor Maintenance Trust Fund).

23 (2) LEVEL OF RECEIPTS FOR HARBOR MAINTENANCE.—The term “level of receipts for harbor
24 maintenance” means the level of taxes credited to
25

1 the Harbor Maintenance Trust Fund under section
 2 9505(a)(1) of the Internal Revenue Code of 1986
 3 for a fiscal year as set forth in the President’s budg-
 4 et baseline projection as defined in section 257 of
 5 the Balanced Budget and Emergency Deficit Control
 6 Act of 1985 (Public Law 99–177) for that fiscal
 7 year submitted pursuant to section 1105 of title 31,
 8 United States Code, reduced by the amount re-
 9 quested in such President’s budget for payments de-
 10 scribed in section 9505(c)(3) of the Internal Rev-
 11 enue Code of 1986.

12 (3) TOTAL BUDGET RESOURCES.—The term
 13 “total budget resources” means the total amount
 14 made available by appropriations Acts from the Har-
 15 bor Maintenance Trust Fund for a fiscal year for
 16 making expenditures under section 9505(c)(1) of the
 17 Internal Revenue Code of 1986.

18 **TITLE V—COAL COMBUSTION**
 19 **RESIDUALS**

20 **SEC. 501. HIGHWAY AND INFRASTRUCTURE SAFETY**
 21 **THROUGH THE PROTECTION OF COAL COM-**
 22 **BUSTION RESIDUAL RECYCLING.**

23 (a) IN GENERAL.—Subtitle D of the Solid Waste Dis-
 24 posal Act (42 U.S.C. 6941 et seq.) is amended by adding
 25 at the end the following new section:

1 **“SEC. 4011. MANAGEMENT AND DISPOSAL OF COAL COM-**
2 **BUSTION RESIDUALS.**

3 “(a) STATE PERMIT PROGRAMS FOR COAL COMBUS-
4 TION RESIDUALS.—Each State may adopt and implement
5 a coal combustion residuals permit program.

6 “(b) STATE ACTIONS.—

7 “(1) NOTIFICATION.—Not later than 6 months
8 after the date of enactment of this section (except
9 as provided by the deadline identified under sub-
10 section (d)(2)(B)), the Governor of each State shall
11 notify the Administrator, in writing, whether such
12 State will adopt and implement a coal combustion
13 residuals permit program.

14 “(2) CERTIFICATION.—

15 “(A) IN GENERAL.—Not later than 36
16 months after the date of enactment of this sec-
17 tion (except as provided in subsections (f)(1)(A)
18 and (f)(1)(C)), in the case of a State that has
19 notified the Administrator that it will imple-
20 ment a coal combustion residuals permit pro-
21 gram, the head of the lead State agency respon-
22 sible for implementing the coal combustion re-
23 siduals permit program shall submit to the Ad-
24 ministrator a certification that such coal com-
25 bustion residuals permit program meets the
26 specifications described in subsection (c)(1).

1 “(B) CONTENTS.—A certification sub-
2 mitted under this paragraph shall include—

3 “(i) a letter identifying the lead State
4 agency responsible for implementing the
5 coal combustion residuals permit program,
6 signed by the head of such agency;

7 “(ii) identification of any other State
8 agencies involved with the implementation
9 of the coal combustion residuals permit
10 program;

11 “(iii) a narrative description that pro-
12 vides an explanation of how the State will
13 ensure that the coal combustion residuals
14 permit program meets the requirements of
15 this section, including a description of the
16 State’s—

17 “(I) process to inspect or other-
18 wise determine compliance with such
19 permit program;

20 “(II) process to enforce the re-
21 quirements of such permit program;
22 and

23 “(III) public participation proc-
24 ess for the promulgation, amendment,
25 or repeal of regulations for, and the

1 issuance of permits under, such per-
2 mit program;

3 “(iv) a legal certification that the
4 State has, at the time of certification, fully
5 effective statutes or regulations necessary
6 to implement a coal combustion residuals
7 permit program that meets the specifica-
8 tions described in subsection (c)(1); and

9 “(v) copies of State statutes and regu-
10 lations described in clause (iv).

11 “(3) MAINTENANCE OF 4005(C) OR 3006 PRO-
12 GRAM.—In order to adopt or implement a coal com-
13 bustion residuals permit program under this section
14 (including pursuant to subsection (f)), the State
15 agency responsible for implementing a coal combus-
16 tion residuals permit program in a State shall main-
17 tain an approved program under section 4005(c) or
18 an authorized program under section 3006.

19 “(c) PERMIT PROGRAM SPECIFICATIONS.—

20 “(1) MINIMUM REQUIREMENTS.—The specifica-
21 tions described in this subsection for a coal combus-
22 tion residuals permit program are as follows:

23 “(A) The revised criteria described in
24 paragraph (2) shall apply to a coal combustion

1 residuals permit program, except as provided in
2 paragraph (3).

3 “(B) Each structure shall be, in accord-
4 ance with generally accepted engineering stand-
5 ards for the structural integrity of such struc-
6 tures, designed, constructed, and maintained to
7 provide for containment of the maximum vol-
8 umes of coal combustion residuals appropriate
9 for the structure. If a structure is determined
10 by the head of the agency responsible for imple-
11 menting the coal combustion residuals permit
12 program to be deficient, the head of such agen-
13 cy has authority to require action to correct the
14 deficiency according to a schedule determined
15 by such agency. If the identified deficiency is
16 not corrected according to such schedule, the
17 head of such agency has authority to require
18 that the structure close in accordance with sub-
19 section (h).

20 “(C) The coal combustion residuals permit
21 program shall apply the revised criteria promul-
22 gated pursuant to section 4010(e) for location,
23 design, groundwater monitoring, corrective ac-
24 tion, financial assurance, closure, and post-clo-
25 sure described in paragraph (2) and the speci-

1 fications described in this paragraph to surface
2 impoundments.

3 “(D) If a structure that is classified as
4 posing a high hazard potential pursuant to the
5 guidelines published by the Federal Emergency
6 Management Agency entitled ‘Federal Guide-
7 lines for Dam Safety: Hazard Potential Classi-
8 fication System for Dams’ (FEMA Publication
9 Number 333) is determined by the head of the
10 agency responsible for implementing the coal
11 combustion residuals permit program to be defi-
12 cient with respect to the structural integrity re-
13 quirement in subparagraph (B), the head of
14 such agency has authority to require action to
15 correct the deficiency according to a schedule
16 determined by such agency. If the identified de-
17 ficiency is not corrected according to such
18 schedule, the head of such agency has authority
19 to require that the structure close in accordance
20 with subsection (h).

21 “(E) New structures that first receive coal
22 combustion residuals after the date of enact-
23 ment of this section shall be constructed with a
24 base located a minimum of two feet above the
25 upper limit of the natural water table.

1 “(F) In the case of a coal combustion re-
2 siduals permit program implemented by a
3 State, the State has the authority to inspect
4 structures and implement and enforce such per-
5 mit program.

6 “(G) In the case of a coal combustion re-
7 siduals permit program implemented by a
8 State, the State has the authority to address
9 wind dispersal of dust from coal combustion re-
10 siduals by requiring dust control measures, as
11 determined appropriate by the head of the lead
12 State agency responsible for implementing the
13 coal combustion residuals permit program.

14 “(2) REVISED CRITERIA.—The revised criteria
15 described in this paragraph are—

16 “(A) the revised criteria for design,
17 groundwater monitoring, corrective action, clo-
18 sure, and post-closure, for structures, includ-
19 ing—

20 “(i) for new structures, and lateral ex-
21 pansions of existing structures, that first
22 receive coal combustion residuals after the
23 date of enactment of this section, the re-
24 vised criteria regarding design require-

1 ments described in section 258.40 of title
2 40, Code of Federal Regulations; and

3 “(ii) for all structures that receive
4 coal combustion residuals after the date of
5 enactment of this section, the revised cri-
6 teria regarding groundwater monitoring
7 and corrective action requirements de-
8 scribed in subpart E of part 258 of title
9 40, Code of Federal Regulations, except
10 that, for the purposes of this paragraph,
11 such revised criteria shall also include—

12 “(I) for the purposes of detection
13 monitoring, the constituents boron,
14 chloride, conductivity, fluoride, mer-
15 cury, pH, sulfate, sulfide, and total
16 dissolved solids; and

17 “(II) for the purposes of assess-
18 ment monitoring, the constituents alu-
19 minum, boron, chloride, fluoride, iron,
20 manganese, molybdenum, pH, sulfate,
21 and total dissolved solids;

22 “(B) the revised criteria for location re-
23 strictions described in—

24 “(i) for new structures, and lateral ex-
25 pansions of existing structures, that first

1 receive coal combustion residuals after the
2 date of enactment of this section, sections
3 258.11 through 258.15 of title 40, Code of
4 Federal Regulations; and

5 “(ii) for existing structures that re-
6 ceive coal combustion residuals after the
7 date of enactment of this section, sections
8 258.11 and 258.15 of title 40, Code of
9 Federal Regulations;

10 “(C) for all structures that receive coal
11 combustion residuals after the date of enact-
12 ment of this section, the revised criteria for air
13 quality described in section 258.24 of title 40,
14 Code of Federal Regulations;

15 “(D) for all structures that receive coal
16 combustion residuals after the date of enact-
17 ment of this section, the revised criteria for fi-
18 nancial assurance described in subpart G of
19 part 258 of title 40, Code of Federal Regula-
20 tions;

21 “(E) for all structures that receive coal
22 combustion residuals after the date of enact-
23 ment of this section, the revised criteria for sur-
24 face water described in section 258.27 of title
25 40, Code of Federal Regulations;

1 “(F) for all structures that receive coal
2 combustion residuals after the date of enact-
3 ment of this section, the revised criteria for rec-
4 ordkeeping described in section 258.29 of title
5 40, Code of Federal Regulations;

6 “(G) for landfills and other land-based
7 units, other than surface impoundments, that
8 receive coal combustion residuals after the date
9 of enactment of this section, the revised criteria
10 for run-on and run-off control systems de-
11 scribed in section 258.26 of title 40, Code of
12 Federal Regulations; and

13 “(H) for surface impoundments that re-
14 ceive coal combustion residuals after the date of
15 enactment of this section, the revised criteria
16 for run-off control systems described in section
17 258.26(a)(2) of title 40, Code of Federal Regu-
18 lations.

19 “(3) APPLICABILITY OF CERTAIN REQUIRE-
20 MENTS.—A State may determine that one or more
21 of the requirements of the revised criteria described
22 in paragraph (2) is not needed for the management
23 of coal combustion residuals in that State, and may
24 decline to apply such requirement as part of its coal
25 combustion residuals permit program. If a State de-

1 cines to apply a requirement under this paragraph,
2 the State shall include in the certification under sub-
3 section (b)(2) a description of such requirement and
4 the reasons such requirement is not needed in the
5 State. If the Administrator determines that a State
6 determination under this paragraph does not accu-
7 rately reflect the needs for the management of coal
8 combustion residuals in the State, the Administrator
9 may treat such State determination as a deficiency
10 under subsection (d).

11 “(d) WRITTEN NOTICE AND OPPORTUNITY TO REM-
12 EDY.—

13 “(1) IN GENERAL.—The Administrator shall
14 provide to a State written notice and an opportunity
15 to remedy deficiencies in accordance with paragraph
16 (2) if at any time the State—

17 “(A) does not satisfy the notification re-
18 quirement under subsection (b)(1);

19 “(B) has not submitted a certification
20 under subsection (b)(2);

21 “(C) does not satisfy the maintenance re-
22 quirement under subsection (b)(3); or

23 “(D) is not implementing a coal combus-
24 tion residuals permit program that meets the
25 specifications described in subsection (c)(1).

1 “(2) CONTENTS OF NOTICE; DEADLINE FOR RE-
2 SPONSE.—A notice provided under this subsection
3 shall—

4 “(A) include findings of the Administrator
5 detailing any applicable deficiencies in—

6 “(i) compliance by the State with the
7 notification requirement under subsection
8 (b)(1);

9 “(ii) compliance by the State with the
10 certification requirement under subsection
11 (b)(2);

12 “(iii) compliance by the State with the
13 maintenance requirement under subsection
14 (b)(3); and

15 “(iv) the State coal combustion re-
16 siduals permit program in meeting the
17 specifications described in subsection
18 (c)(1); and

19 “(B) identify, in collaboration with the
20 State, a reasonable deadline, which shall be not
21 sooner than 6 months after the State receives
22 the notice, by which the State shall remedy the
23 deficiencies detailed under subparagraph (A).

24 “(e) IMPLEMENTATION BY ADMINISTRATOR.—

1 “(1) IN GENERAL.—The Administrator shall
2 implement a coal combustion residuals permit pro-
3 gram for a State only in the following cir-
4 cumstances:

5 “(A) If the Governor of such State notifies
6 the Administrator under subsection (b)(1) that
7 such State will not adopt and implement such
8 a permit program.

9 “(B) If such State has received a notice
10 under subsection (d) and, after any review
11 brought by the State under section 7006, fails,
12 by the deadline identified in such notice under
13 subsection (d)(2)(B), to remedy the deficiencies
14 detailed in such notice under subsection
15 (d)(2)(A).

16 “(C) If such State informs the Adminis-
17 trator, in writing, that such State will no longer
18 implement such a permit program.

19 “(2) REQUIREMENTS.—If the Administrator
20 implements a coal combustion residuals permit pro-
21 gram for a State under paragraph (1), such permit
22 program shall consist of the specifications described
23 in subsection (c)(1).

24 “(3) ENFORCEMENT.—If the Administrator im-
25 plements a coal combustion residuals permit pro-

1 gram for a State under paragraph (1), the authori-
2 ties referred to in section 4005(c)(2)(A) shall apply
3 with respect to coal combustion residuals and struc-
4 tures and the Administrator may use such authori-
5 ties to inspect, gather information, and enforce the
6 requirements of this section in the State.

7 “(f) STATE CONTROL AFTER IMPLEMENTATION BY
8 ADMINISTRATOR.—

9 “(1) STATE CONTROL.—

10 “(A) NEW ADOPTION AND IMPLEMENTA-
11 TION BY STATE.—For a State for which the
12 Administrator is implementing a coal combus-
13 tion residuals permit program under subsection
14 (e)(1)(A), the State may adopt and implement
15 such a permit program by—

16 “(i) notifying the Administrator that
17 the State will adopt and implement such a
18 permit program;

19 “(ii) not later than 6 months after the
20 date of such notification, submitting to the
21 Administrator a certification under sub-
22 section (b)(2); and

23 “(iii) receiving from the Adminis-
24 trator—

1 “(I) a determination that the
2 State coal combustion residuals per-
3 mit program meets the specifications
4 described in subsection (e)(1); and

5 “(II) a timeline for transition of
6 control of the coal combustion residu-
7 als permit program.

8 “(B) REMEDYING DEFICIENT PERMIT PRO-
9 GRAM.—For a State for which the Adminis-
10 trator is implementing a coal combustion re-
11 siduals permit program under subsection
12 (e)(1)(B), the State may adopt and implement
13 such a permit program by—

14 “(i) remedying the deficiencies de-
15 tailed in the notice provided under sub-
16 section (d)(2)(A); and

17 “(ii) receiving from the Adminis-
18 trator—

19 “(I) a determination that the de-
20 ficiencies detailed in such notice have
21 been remedied; and

22 “(II) a timeline for transition of
23 control of the coal combustion residu-
24 als permit program.

1 “(C) RESUMPTION OF IMPLEMENTATION
2 BY STATE.—For a State for which the Adminis-
3 trator is implementing a coal combustion re-
4 siduals permit program under subsection
5 (e)(1)(C), the State may adopt and implement
6 such a permit program by—

7 “(i) notifying the Administrator that
8 the State will adopt and implement such a
9 permit program;

10 “(ii) not later than 6 months after the
11 date of such notification, submitting to the
12 Administrator a certification under sub-
13 section (b)(2); and

14 “(iii) receiving from the Adminis-
15 trator—

16 “(I) a determination that the
17 State coal combustion residuals per-
18 mit program meets the specifications
19 described in subsection (e)(1); and

20 “(II) a timeline for transition of
21 control of the coal combustion residu-
22 als permit program.

23 “(2) REVIEW OF DETERMINATION.—

24 “(A) DETERMINATION REQUIRED.—The
25 Administrator shall make a determination

1 under paragraph (1) not later than 90 days
2 after the date on which the State submits a cer-
3 tification under paragraph (1)(A)(ii) or
4 (1)(C)(ii), or notifies the Administrator that the
5 deficiencies have been remedied pursuant to
6 paragraph (1)(B)(i), as applicable.

7 “(B) REVIEW.—A State may obtain a re-
8 view of a determination by the Administrator
9 under paragraph (1) as if such determination
10 was a final regulation for purposes of section
11 7006.

12 “(3) IMPLEMENTATION DURING TRANSITION.—

13 “(A) EFFECT ON ACTIONS AND ORDERS.—
14 Actions taken or orders issued pursuant to a
15 coal combustion residuals permit program shall
16 remain in effect if—

17 “(i) a State takes control of its coal
18 combustion residuals permit program from
19 the Administrator under paragraph (1); or

20 “(ii) the Administrator takes control
21 of a coal combustion residuals permit pro-
22 gram from a State under subsection (e).

23 “(B) CHANGE IN REQUIREMENTS.—Sub-
24 paragraph (A) shall apply to such actions and
25 orders until such time as the Administrator or

1 the head of the lead State agency responsible
2 for implementing the coal combustion residuals
3 permit program, as applicable—

4 “(i) implements changes to the re-
5 quirements of the coal combustion residu-
6 als permit program with respect to the
7 basis for the action or order; or

8 “(ii) certifies the completion of a cor-
9 rective action that is the subject of the ac-
10 tion or order.

11 “(4) SINGLE PERMIT PROGRAM.—If a State
12 adopts and implements a coal combustion residuals
13 permit program under this subsection, the Adminis-
14 trator shall cease to implement the permit program
15 implemented under subsection (e) for such State.

16 “(g) EFFECT ON DETERMINATION UNDER 4005(C)
17 OR 3006.—The Administrator shall not consider the im-
18 plementation of a coal combustion residuals permit pro-
19 gram by the Administrator under subsection (e) in making
20 a determination of approval for a permit program or other
21 system of prior approval and conditions under section
22 4005(c) or of authorization for a program under section
23 3006.

24 “(h) CLOSURE.—If it is determined, pursuant to a
25 coal combustion residuals permit program, that a struc-

1 ture should close, the time period and method for the clo-
2 sure of such structure shall be set forth in a closure plan
3 that establishes a deadline for completion and that takes
4 into account the nature and the site-specific characteris-
5 ties of the structure to be closed. In the case of a surface
6 impoundment, the closure plan shall require, at a min-
7 imum, the removal of liquid and the stabilization of re-
8 maining waste, as necessary to support the final cover.

9 “(i) AUTHORITY.—

10 “(1) STATE AUTHORITY.—Nothing in this sec-
11 tion shall preclude or deny any right of any State to
12 adopt or enforce any regulation or requirement re-
13 specting coal combustion residuals that is more
14 stringent or broader in scope than a regulation or
15 requirement under this section.

16 “(2) AUTHORITY OF THE ADMINISTRATOR.—

17 “(A) IN GENERAL.—Except as provided in
18 subsection (e) of this section and section 6005
19 of this title, the Administrator shall, with re-
20 spect to the regulation of coal combustion re-
21 siduals, defer to the States pursuant to this sec-
22 tion.

23 “(B) IMMINENT HAZARD.—Nothing in this
24 section shall be construed to affect the author-

1 ity of the Administrator under section 7003
2 with respect to coal combustion residuals.

3 “(C) TECHNICAL AND ENFORCEMENT AS-
4 SISTANCE ONLY UPON REQUEST.—Upon re-
5 quest from the head of a lead State agency that
6 is implementing a coal combustion residuals
7 permit program, the Administrator may provide
8 to such State agency only the technical or en-
9 forcement assistance requested.

10 “(3) CITIZEN SUITS.—Nothing in this section
11 shall be construed to affect the authority of a person
12 to commence a civil action in accordance with sec-
13 tion 7002.

14 “(j) MINE RECLAMATION ACTIVITIES.—A coal com-
15 bustion residuals permit program implemented under sub-
16 section (e) by the Administrator shall not apply to the uti-
17 lization, placement, and storage of coal combustion residu-
18 als at surface mining and reclamation operations.

19 “(k) DEFINITIONS.—In this section:

20 “(1) COAL COMBUSTION RESIDUALS.—The
21 term ‘coal combustion residuals’ means—

22 “(A) the solid wastes listed in section
23 3001(b)(3)(A)(i), including recoverable mate-
24 rials from such wastes;

1 “(B) coal combustion wastes that are co-
2 managed with wastes produced in conjunction
3 with the combustion of coal, provided that such
4 wastes are not segregated and disposed of sepa-
5 rately from the coal combustion wastes and
6 comprise a relatively small proportion of the
7 total wastes being disposed in the structure;

8 “(C) fluidized bed combustion wastes;

9 “(D) wastes from the co-burning of coal
10 with non-hazardous secondary materials pro-
11 vided that coal makes up at least 50 percent of
12 the total fuel burned; and

13 “(E) wastes from the co-burning of coal
14 with materials described in subparagraph (A)
15 that are recovered from monofills.

16 “(2) COAL COMBUSTION RESIDUALS PERMIT
17 PROGRAM.—The term ‘coal combustion residuals
18 permit program’ means a permit program or other
19 system of prior approval and conditions that is
20 adopted by or for a State for the management and
21 disposal of coal combustion residuals to the extent
22 such activities occur in structures in such State.

23 “(3) STRUCTURE.—The term ‘structure’ means
24 a landfill, surface impoundment, or other land-based
25 unit which may receive coal combustion residuals.

1 “(4) REVISED CRITERIA.—The term ‘revised
2 criteria’ means the criteria promulgated for munic-
3 ipal solid waste landfill units under section 4004(a)
4 and under section 1008(a)(3), as revised under sec-
5 tion 4010(c) in accordance with the requirement of
6 such section that the criteria protect human health
7 and the environment.”.

8 (b) 2000 REGULATORY DETERMINATION.—Nothing
9 in this section, or the amendments made by this section,
10 shall be construed to alter in any manner the Environ-
11 mental Protection Agency’s regulatory determination enti-
12 tled “Notice of Regulatory Determination on Wastes from
13 the Combustion of Fossil Fuels”, published at 65 Fed.
14 Reg. 32214 (May 22, 2000), that the fossil fuel combus-
15 tion wastes addressed in that determination do not war-
16 rant regulation under subtitle C of the Solid Waste Dis-
17 posal Act (42 U.S.C. 6921 et seq.).

18 (c) CONFORMING AMENDMENT.—The table of con-
19 tents contained in section 1001 of the Solid Waste Dis-
20 posal Act is amended by inserting after the item relating
21 to section 4010 the following:

“Sec. 4011. Management and disposal of coal combustion residuals.”.

1 **TITLE VI—ENVIRONMENTAL**
2 **STREAMLINING**

3 **SEC. 601. AMENDMENTS TO TITLE 23, UNITED STATES**
4 **CODE.**

5 Except as otherwise expressly provided, whenever in
6 this title an amendment or repeal is expressed in terms
7 of an amendment to, or a repeal of, a section or other
8 provision, the reference shall be considered to be made to
9 a section or other provision of title 23, United States
10 Code.

11 **SEC. 602. DECLARATION OF POLICY.**

12 (a) **EXPEDITED PROJECT DELIVERY.**—Section
13 101(b) is amended by adding at the end the following:

14 “(4) **EXPEDITED PROJECT DELIVERY.**—Con-
15 gress declares that it is in the national interest to
16 expedite the delivery of surface transportation
17 projects by substantially reducing the average length
18 of the environmental review process. Accordingly, it
19 is the policy of the United States that—

20 “(A) the Secretary shall have the lead role
21 among Federal agencies in carrying out the en-
22 vironmental review process for surface transpor-
23 tation projects;

24 “(B) each Federal agency shall cooperate
25 with the Secretary to expedite the environ-

1 mental review process for surface transpor-
2 tation projects;

3 “(C) there shall be a presumption that the
4 mode, facility type, and corridor location for a
5 surface transportation project will be deter-
6 mined in the transportation planning process,
7 as established in sections 134 and 135 and sec-
8 tions 5303 and 5304 of title 49;

9 “(D) project sponsors shall not be prohib-
10 ited from carrying out pre-construction project
11 development activities concurrently with the en-
12 vironmental review process;

13 “(E) programmatic approaches shall be
14 used, to the maximum extent possible, to reduce
15 the need for project-by-project reviews and deci-
16 sions by Federal agencies; and

17 “(F) the Secretary shall actively support
18 increased opportunities for project sponsors to
19 assume responsibilities of the Secretary in car-
20 rying out the environmental review process.”.

21 **SEC. 603. EXEMPTION IN EMERGENCIES.**

22 If any road, highway, or bridge is in operation or
23 under construction when damaged by an emergency de-
24 clared by the Governor of the State and concurred in by
25 the Secretary, or declared by the President pursuant to

1 the Robert T. Stafford Disaster Relief and Emergency As-
2 sistance Act (42 U.S.C. 5121), and is reconstructed in the
3 same location with the same capacity, dimensions, and de-
4 sign as before the emergency, then that reconstruction
5 project shall be exempt from any further environmental
6 reviews, approvals, licensing, and permit requirements
7 under—

8 (1) the National Environmental Policy Act of
9 1969 (42 U.S.C. 4321 et seq.);

10 (2) sections 402 and 404 of the Federal Water
11 Pollution Control Act (33 U.S.C. 1342, 1344);

12 (3) the National Historic Preservation Act (16
13 U.S.C. 470 et seq.);

14 (4) the Migratory Bird Treaty Act (16 U.S.C.
15 703 et seq.);

16 (5) the Wild and Scenic Rivers Act (16 U.S.C.
17 1271 et seq.);

18 (6) the Fish and Wildlife Coordination Act (16
19 U.S.C. 661 et seq.);

20 (7) the Endangered Species Act of 1973 (16
21 U.S.C. 1531 et seq.), except when the reconstruction
22 occurs in designated critical habitat for threatened
23 and endangered species;

1 (8) Executive Order No. 11990 (42 U.S.C.
2 4321 note; relating to the protection of wetlands);
3 and

4 (9) any Federal law (including regulations) re-
5 quiring no net loss of wetlands.

6 **SEC. 604. ADVANCE ACQUISITION OF REAL PROPERTY IN-**
7 **TERESTS.**

8 (a) **REAL PROPERTY INTERESTS.**—Section 108 is
9 amended—

10 (1) by striking “real property” each place it ap-
11 pears and inserting “real property interests”;

12 (2) by striking “right-of-way” each place it ap-
13 pears and inserting “real property interest”; and

14 (3) by striking “rights-of-way” each place it ap-
15 pears and inserting “real property interests”.

16 (b) **STATE-FUNDED EARLY ACQUISITION OF REAL**
17 **PROPERTY INTERESTS.**—Section 108(c) is amended—

18 (1) in the subsection heading by striking
19 “EARLY ACQUISITION OF RIGHTS-OF-WAY” and in-
20 serting “STATE-FUNDED EARLY ACQUISITION OF
21 REAL PROPERTY INTERESTS”;

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

24 (3) in paragraph (2), as redesignated—

1 (A) in the heading by striking “GENERAL
2 RULE” and inserting “ELIGIBILITY FOR REIM-
3 BURSEMENT”; and

4 (B) by striking “Subject to paragraph (2)”
5 and inserting “Subject to paragraph (3)”;

6 (4) by inserting before paragraph (2), as reded-
7 icated, the following:

8 “(1) IN GENERAL.—A State may carry out, at
9 the expense of the State, acquisitions of interests in
10 real property for a project before completion of the
11 review process required for the project under the
12 National Environmental Policy Act of 1969 (42
13 U.S.C. 4321 et seq.) without affecting subsequent
14 approvals required for the project by the State or
15 any Federal agency.”; and

16 (5) in paragraph (3), as redesignated—

17 (A) in the matter preceding subparagraph
18 (A) by striking “in paragraph (1)” and insert-
19 ing “in paragraph (2)”;

20 (B) in subparagraph (G) by striking “both
21 the Secretary and the Administrator of the En-
22 vironmental Protection Agency have concurred”
23 and inserting “the Secretary has determined”.

1 (c) FEDERALLY FUNDED ACQUISITION OF REAL
2 PROPERTY INTERESTS.—Section 108 is further amended
3 by adding at the end the following:

4 “(d) FEDERALLY FUNDED EARLY ACQUISITION OF
5 REAL PROPERTY INTERESTS.—

6 “(1) IN GENERAL.—The Secretary may author-
7 ize the use of Federal funds for the acquisition of
8 a real property interest by a State. For purposes of
9 this subsection, an acquisition of a real property in-
10 terest includes the acquisition of any interest in
11 land, including the acquisition of a contractual right
12 to acquire any interest in land, or any other similar
13 action to acquire or preserve rights-of-way for a
14 transportation facility.

15 “(2) STATE CERTIFICATION.—A State request-
16 ing Federal funding for an acquisition of a real
17 property interest shall certify in writing that—

18 “(A) the State has authority to acquire the
19 real property interest under State law;

20 “(B) the acquisition of the real property
21 interest is for a transportation purpose; and

22 “(C) the State acknowledges that early ac-
23 quisition will not be considered by the Secretary
24 in the environmental assessment of a project,
25 the decision relative to the need to construct a

1 project, or the selection of a project design or
2 location.

3 “(3) ENVIRONMENTAL COMPLIANCE.—Before
4 authorizing Federal funding for an acquisition of a
5 real property interest, the Secretary shall complete
6 for the acquisition the review process under the Na-
7 tional Environmental Policy Act of 1969 (42 U.S.C.
8 4321 et seq.). For purposes of the review process,
9 the acquisition of a real property interest shall be
10 treated as having independent utility and does not
11 limit consideration of alternatives for future trans-
12 portation improvements with respect to the real
13 property interest.

14 “(4) PROGRAMMING.—The acquisition of a real
15 property interest for which Federal funding is re-
16 quested shall be included as a project in an applica-
17 ble transportation improvement program under sec-
18 tions 134 and 135 and sections 5303 and 5304 of
19 title 49. The acquisition project may be included in
20 the transportation improvement program on its own,
21 without including the future construction project for
22 which the real property interest is being acquired.
23 The acquisition project may consist of the acquisi-
24 tion of a specific parcel, a portion of a transpor-
25 tation corridor, or an entire transportation corridor.

1 “(5) OTHER REQUIREMENTS.—The acquisition
2 of a real property interest shall be carried out in
3 compliance with all requirements applicable to the
4 acquisition of real property interests for federally
5 funded transportation projects.

6 “(e) CONSIDERATION OF LONG-RANGE TRANSPOR-
7 TATION NEEDS.—The Secretary shall encourage States
8 and other public authorities, if practicable, to acquire
9 transportation real property interests that are sufficient
10 to accommodate long-range transportation needs and, if
11 possible, to do so through the acquisition of broad real
12 property interests that have the capacity for expansion
13 over a 50- to 100-year period and the potential to accom-
14 modate one or more transportation modes.”.

15 **SEC. 605. STANDARDS.**

16 Section 109 is amended by adding at the end the fol-
17 lowing:

18 “(r) UNDERTAKING DESIGN ACTIVITIES BEFORE
19 COMPLETION OF ENVIRONMENTAL REVIEW PROCESS.—

20 “(1) IN GENERAL.—A State may carry out, at
21 the expense of the State, design activities at any
22 level of detail for a project before completion of the
23 review process required for the project under the
24 National Environmental Policy Act of 1969 (42

1 U.S.C. 4321 et seq.) without affecting subsequent
2 approvals of the project.

3 “(2) ELIGIBILITY FOR REIMBURSEMENT.—Sub-
4 ject to paragraph (3), funds apportioned to a State
5 under this title may be used to participate in the
6 payment of costs incurred by the State for design
7 activities, if the results of the activities are subse-
8 quently incorporated (in whole or in substantial
9 part) into a project eligible for surface transpor-
10 tation program funds.

11 “(3) TERMS AND CONDITIONS.—The Federal
12 share payable of the costs described in paragraph
13 (2) shall be eligible for reimbursement out of funds
14 apportioned to a State under this title when the de-
15 sign activities are incorporated (in whole or in sub-
16 stantial part) into a project eligible for surface
17 transportation program funds, if the State dem-
18 onstrates to the Secretary and the Secretary finds
19 that—

20 “(A) before the time that the cost incurred
21 by a State is approved for Federal participa-
22 tion, environmental compliance pursuant to the
23 National Environmental Policy Act of 1969 (42
24 U.S.C. 4321 et seq.) has been completed for the

1 project for which the design activities were con-
2 ducted by the State; and

3 “(B) the design activities conducted pursu-
4 ant to this subsection did not preclude the con-
5 sideration of alternatives to the project.”.

6 **SEC. 606. LETTING OF CONTRACTS.**

7 (a) BIDDING REQUIREMENTS.—Section 112(b)(1) is
8 amended to read as follows:

9 “(1) IN GENERAL.—

10 “(A) COMPETITIVE BIDDING REQUIRE-
11 MENT.—Subject to paragraphs (2), (3), and
12 (4), construction of each project, subject to the
13 provisions of subsection (a), shall be performed
14 by contract awarded by competitive bidding, un-
15 less the State transportation department dem-
16 onstrates, to the satisfaction of the Secretary,
17 that some other method is more cost effective
18 or that an emergency exists.

19 “(B) BASIS OF AWARD.—

20 “(i) IN GENERAL.—Contracts for the
21 construction of each project shall be
22 awarded only on the basis of the lowest re-
23 sponsive bid submitted by a bidder meeting
24 established criteria of responsibility.

1 “(ii) PROHIBITION.—No requirement
2 or obligation shall be imposed as a condi-
3 tion precedent to the award of a contract
4 to such bidder for a project, or to the Sec-
5 retary’s concurrence in the award of a con-
6 tract to such bidder, unless such require-
7 ment or obligation is otherwise lawful and
8 is specifically set forth in the advertised
9 specifications.”.

10 (b) DESIGN-BUILD CONTRACTING.—Section
11 112(b)(3) is amended—

12 (1) in subparagraph (A) by striking “subpara-
13 graph (C)” and inserting “subparagraph (B)”;

14 (2) by striking subparagraph (B);

15 (3) by redesignating subparagraphs (C) through
16 (E) as subparagraphs (B) through (D), respectively;
17 and

18 (4) in subparagraph (C), as redesignated—

19 (A) in the matter preceding clause (i) by
20 striking “of the SAFETEA-LU” and inserting
21 “of the Surface Transportation Extension Act
22 of 2012, Part II”;

23 (B) in clause (ii) by striking “and” at the
24 end;

25 (C) in clause (iii)—

1 (i) by striking “final design or”; and

2 (ii) by striking the period at the end

3 and inserting “; and”; and

4 (D) by adding at the end the following:

5 “(iv) permit the State transportation
6 department, the local transportation agen-
7 cy, and the design-build contractor to pro-
8 ceed, at the expense of one or more of
9 those entities, with design activities at any
10 level of detail for a project before comple-
11 tion of the review process required for the
12 project under the National Environmental
13 Policy Act of 1969 (42 U.S.C. 4321 et
14 seq.) without affecting subsequent approv-
15 als required for the project. Design activi-
16 ties carried out under this clause shall be
17 eligible for Federal reimbursement as a
18 project expense in accordance with the re-
19 quirements under section 109(r).”.

20 (c) EFFICIENCIES IN CONTRACTING.—Section 112(b)

21 is amended by adding at the end the following:

22 “(4) METHOD OF CONTRACTING.—

23 “(A) IN GENERAL.—

24 “(i) TWO-PHASE CONTRACT.—A con-
25 tracting agency may award a two-phase

1 contract for preconstruction and construc-
2 tion services.

3 “(ii) PRE-CONSTRUCTION SERVICES
4 PHASE.—In the pre-construction services
5 phase, the contractor shall provide the con-
6 tracting agency with advice for scheduling,
7 work sequencing, cost engineering,
8 constructability, cost estimating, and risk
9 identification.

10 “(iii) AGREEMENT.—Prior to the
11 start of the construction services phase,
12 the contracting agency and the contractor
13 may agree to a price and other factors
14 specified in regulation for the construction
15 of the project or a portion of the project.

16 “(iv) CONSTRUCTION PHASE.—If an
17 agreement is reached under clause (iii), the
18 contractor shall be responsible for the con-
19 struction of the project or portion of the
20 project at the negotiated price and other
21 factors specified in regulation.

22 “(B) SELECTION.—A contract shall be
23 awarded to a contractor using a competitive se-
24 lection process based on qualifications, experi-
25 ence, best value, or any other combination of

1 factors considered appropriate by the con-
2 tracting agency.

3 “(C) TIMING.—

4 “(i) RELATIONSHIP TO NEPA PROC-
5 ESS.—Prior to the completion of the proc-
6 ess required under section 102 of the Na-
7 tional Environmental Policy Act of 1969
8 (42 U.S.C. 4332), a contracting agency
9 may—

10 “(I) issue requests for proposals;

11 “(II) proceed with the award of a
12 contract for preconstruction services
13 under subparagraph (A); and

14 “(III) issue notices to proceed
15 with a preliminary design and any
16 work related to preliminary design.

17 “(ii) PRECONSTRUCTION SERVICES
18 PHASE.—If the preconstruction services
19 phase of a contract under subparagraph
20 (A)(ii) focuses primarily on one alternative,
21 the Secretary shall require that the con-
22 tract include appropriate provisions to
23 achieve the objectives of section 102 of the
24 National Environmental Policy Act of
25 1969 (42 U.S.C. 4332) and comply with

1 other applicable Federal laws and regula-
2 tions.

3 “(iii) CONSTRUCTION SERVICES
4 PHASE.—A contracting agency may not
5 proceed with the award of the construction
6 services phase of a contract under subpara-
7 graph (A)(iv) and may not proceed, or per-
8 mit any consultant or contractor to pro-
9 ceed, with construction until completion of
10 the process required under section 102 of
11 the National Environmental Policy Act of
12 1969 (42 U.S.C. 4332).

13 “(iv) APPROVAL REQUIREMENT.—
14 Prior to authorizing construction activities,
15 the Secretary shall approve the contracting
16 agency’s price estimate for the entire
17 project, as well as any price agreement
18 with the general contractor for the project
19 or a portion of the project.

20 “(v) DESIGN ACTIVITIES.—A con-
21 tracting agency may proceed, at its ex-
22 pense, with design activities at any level of
23 detail for a project before completion of
24 the review process required for the project
25 under the National Environmental Policy

1 Act of 1969 (42 U.S.C. 4321 et seq.) with-
2 out affecting subsequent approvals re-
3 quired for the project. Design activities
4 carried out under this clause shall be eligi-
5 ble for Federal reimbursement as a project
6 expense in accordance with the require-
7 ments under section 109(r).”.

8 **SEC. 607. ELIMINATION OF DUPLICATION IN HISTORIC**
9 **PRESERVATION REQUIREMENTS.**

10 (a) PRESERVATION OF PARKLANDS.—Section 138 is
11 amended by adding at the end the following:

12 “(c) ELIMINATION OF DUPLICATION FOR HISTORIC
13 SITES AND PROPERTIES.—The requirements of this sec-
14 tion shall be considered to be satisfied for an historic site
15 or property where its treatment has been agreed upon in
16 a memorandum of agreement by invited and mandatory
17 signatories, including the Advisory Council on Historic
18 Preservation, if participating, in accordance with section
19 106 of the National Historic Preservation Act (16 U.S.C.
20 470f).”.

21 (b) POLICY ON LANDS, WILDLIFE AND WATERFOWL
22 REFUGES, AND HISTORIC SITES.—Section 303 of title 49,
23 United States Code, is amended by adding at the end the
24 following:

1 “(e) **ELIMINATION OF DUPLICATION FOR HISTORIC**
2 **SITES AND PROPERTIES.**—The requirements of this sec-
3 tion shall be considered to be satisfied for an historic site
4 or property where its treatment has been agreed upon in
5 a memorandum of agreement by invited and mandatory
6 signatories, including the Advisory Council on Historic
7 Preservation, if participating, in accordance with section
8 106 of the National Historic Preservation Act (16 U.S.C.
9 470f).”.

10 **SEC. 608. FUNDING THRESHOLD.**

11 Section 139(b) is amended by adding at the end the
12 following:

13 “(3) **FUNDING THRESHOLD.**—The Secretary’s
14 approval of a project receiving funds under this title
15 or under chapter 53 of title 49 shall not be consid-
16 ered a Federal action for the purposes of the Na-
17 tional Environmental Policy Act of 1969 if such
18 funds—

19 “(A) constitute 15 percent or less of the
20 total estimated project costs; or

21 “(B) are less than \$10,000,000.”.

22 **SEC. 609. EFFICIENT ENVIRONMENTAL REVIEWS FOR**
23 **PROJECT DECISIONMAKING.**

24 (a) **FLEXIBILITY.**—Section 139(b) is further amend-
25 ed—

1 (1) in paragraph (2) by inserting “, and any re-
2 requirements established in this section may be satis-
3 fied,” after “exercised”; and

4 (2) by adding after paragraph (3), as added by
5 this Act, the following:

6 “(4) PROGRAMMATIC COMPLIANCE.—At the re-
7 quest of a State, the Secretary may modify the pro-
8 cedures developed under this section to encourage
9 programmatic approaches and strategies with re-
10 spect to environmental programs and permits (in
11 lieu of project-by-project reviews).”.

12 (b) FEDERAL LEAD AGENCY.—Section 139(c) is
13 amended—

14 (1) in paragraph (1) by adding at the end the
15 following: “If the project requires approval from
16 more than one modal administration within the De-
17 partment, the Secretary shall designate a single
18 modal administration to serve as the Federal lead
19 agency for the Department in the environmental re-
20 view process for the project.”;

21 (2) in paragraph (3) by inserting “or other ap-
22 provals by the Secretary” after “chapter 53 of title
23 49”; and

24 (3) by striking paragraph (5) and inserting the
25 following:

1 “(5) ADOPTION AND USE OF DOCUMENTS.—
2 Any environmental document prepared in accordance
3 with this subsection shall be adopted and used by
4 any Federal agency in making any approval of a
5 project subject to this section as the document re-
6 quired to be completed under the National Environ-
7 mental Policy Act of 1969.”.

8 (c) PARTICIPATING AGENCIES.—

9 (1) EFFECT OF DESIGNATION.—Section
10 139(d)(4) is amended to read as follows:

11 “(4) EFFECT OF DESIGNATION.—

12 “(A) REQUIREMENT.—A participating
13 agency shall comply with the requirements of
14 this section and any schedule established under
15 this section.

16 “(B) IMPLICATION.—Designation as a par-
17 ticipating agency under this subsection shall not
18 imply that the participating agency—

19 “(i) supports a proposed project; or

20 “(ii) has any jurisdiction over, or spe-
21 cial expertise with respect to evaluation of,
22 the project.”.

23 (2) CONCURRENT REVIEWS.—Section 139(d)(7)
24 is amended to read as follows:

1 “(7) CONCURRENT REVIEWS.—Each partici-
2 pating agency and cooperating agency shall—

3 “(A) carry out obligations of that agency
4 under other applicable law concurrently, and in
5 conjunction, with the review required under the
6 National Environmental Policy Act of 1969 (42
7 U.S.C. 4321 et seq.); and

8 “(B) formulate and implement administra-
9 tive, policy, and procedural mechanisms to en-
10 able the agency to ensure completion of the en-
11 vironmental review process in a timely, coordi-
12 nated, and environmentally responsible man-
13 ner.”.

14 (d) PROJECT INITIATION.—Section 139(e) is amend-
15 ed by adding at the end the following: “The project spon-
16 sor may satisfy this requirement by submitting to the Sec-
17 retary a draft notice for publication in the Federal Reg-
18 ister announcing the preparation of an environmental im-
19 pact statement for the project.”.

20 (e) ALTERNATIVES ANALYSIS.—Section 139(f) is
21 amended—

22 (1) in paragraph (4)—

23 (A) by amending subparagraph (B) to read
24 as follows:

25 “(B) RANGE OF ALTERNATIVES.—

1 “(i) IN GENERAL.—Following partici-
2 pation under paragraph (1), the lead agen-
3 cy shall determine the range of alternatives
4 for consideration in any document which
5 the lead agency is responsible for pre-
6 paring for the project.

7 “(ii) LIMITATION.—The range of al-
8 ternatives shall be limited to alternatives
9 that are consistent with the transportation
10 mode and general design of the project de-
11 scribed in the long-range transportation
12 plan or transportation improvement pro-
13 gram prepared pursuant to section 134 or
14 135 or section 5303 or 5304 of title 49.

15 “(iii) RESTRICTION.—A Federal agen-
16 cy may not require the evaluation of any
17 alternative that was evaluated, but not
18 adopted—

19 “(I) in any prior State or Fed-
20 eral environmental document with re-
21 gard to the applicable long-range
22 transportation plan or transportation
23 improvement program; or

24 “(II) after the preparation of a
25 programmatic or tiered environmental

1 document that evaluated alternatives
2 to the project.

3 “(iv) LEGAL SUFFICIENCY.—The eval-
4 uation of the range of alternatives shall be
5 deemed legally sufficient if the environ-
6 mental document complies with the re-
7 quirements of this paragraph.”;

8 (B) in subparagraph (C)—

9 (i) by striking “(C) METHODOLO-
10 GIES.—The lead agency” and inserting the
11 following:

12 “(C) METHODOLOGIES.—

13 “(i) IN GENERAL.—The lead agency”;

14 (ii) by striking “in collaboration with
15 participating agencies at appropriate times
16 during the study process” and inserting
17 “after consultation with participating
18 agencies as part of the scoping process”;
19 and

20 (iii) by adding at the end the fol-
21 lowing:

22 “(ii) COMMENTS.—Each participating
23 agency shall limit comments on such meth-
24 odologies to those issues that are within

1 the authority and expertise of such partici-
2 pating agency.

3 “(iii) STUDIES.—The lead agency may
4 not conduct studies proposed by any par-
5 ticipating agency that are not within the
6 authority or expertise of such participating
7 agency.”; and

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

9 “(E) LIMITATIONS ON THE EVALUATION
10 OF IMPACTS EVALUATED IN PRIOR ENVIRON-
11 MENTAL DOCUMENTS.—

12 “(i) IN GENERAL.—The lead agency
13 may not reevaluate, and a Federal agency
14 may not require the reevaluation of, cumu-
15 lative impacts or growth-inducing impacts
16 where such impacts were previously evalu-
17 ated in—

18 “(I) a long-range transportation
19 plan or transportation improvement
20 program developed pursuant to sec-
21 tion 134 or 135 or section 5303 or
22 5304 of title 49;

23 “(II) a prior environmental docu-
24 ment approved by the Secretary; or

1 “(III) a prior State environ-
2 mental document approved pursuant
3 to a State law that is substantially
4 equivalent to section 102(2)(C) of the
5 National Environmental Policy Act of
6 1969 (42 U.S.C. 4332(2)(C)).

7 “(ii) LEGAL SUFFICIENCY.—The eval-
8 uation of cumulative impacts and growth
9 inducing impacts shall be deemed legally
10 sufficient if the environmental document
11 complies with the requirements of this
12 paragraph.”; and

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

14 “(5) EFFECTIVE DECISIONMAKING.—

15 “(A) CONCURRENCE.—At the discretion of
16 the lead agency, a participating agency shall be
17 presumed to concur in the determinations made
18 by the lead agency under this subsection unless
19 the participating agency submits an objection to
20 the lead agency in writing within 30 days after
21 receiving notice of the lead agency’s determina-
22 tion and specifies the statutory basis for the ob-
23 jection.

24 “(B) ADOPTION OF DETERMINATION.—If
25 the participating agency concurs or does not ob-

1 ject within the 30-day period, the participating
2 agency shall adopt the lead agency’s determina-
3 tion for purposes of any reviews, approvals, or
4 other actions taken by the participating agency
5 as part of the environmental review process for
6 the project.”.

7 (f) COORDINATION PLAN.—Section 139(g) is amend-
8 ed—

9 (1) in paragraph (1)(A) by striking “project or
10 category of projects” and inserting “project, cat-
11 egory of projects, or program of projects”;

12 (2) by amending paragraph (3) to read as fol-
13 lows:

14 “(3) DEADLINES FOR DECISIONS UNDER
15 OTHER LAWS.—

16 “(A) PRIOR APPROVAL DEADLINE.—If a
17 participating agency is required to make a de-
18 termination regarding or otherwise approve or
19 disapprove the project prior to the record of de-
20 cision or finding of no significant impact of the
21 lead agency, such participating agency shall
22 make such determination or approval not later
23 than 30 days after the lead agency publishes
24 notice of the availability of a final environ-
25 mental impact statement or other final environ-

1 mental document, or not later than such other
2 date that is otherwise required by law, which-
3 ever occurs first.

4 “(B) OTHER DEADLINES.—With regard to
5 any determination or approval of a partici-
6 pating agency that is not subject to subpara-
7 graph (A), each participating agency shall make
8 any required determination regarding or other-
9 wise approve or disapprove the project not later
10 than 90 days after the date that the lead agen-
11 cy approves the record of decision or finding of
12 no significant impact for the project, or not
13 later than such other date that is otherwise re-
14 quired by law, whichever occurs first.

15 “(C) DEEMED APPROVED.—In the event
16 that any participating agency fails to make a
17 determination or approve or disapprove the
18 project within the applicable deadline described
19 in subparagraphs (A) and (B), the project shall
20 be deemed approved by such participating agen-
21 cy, and such approval shall be deemed to com-
22 ply with the applicable requirements of Federal
23 law.

24 “(D) WRITTEN FINDING.—The Secretary
25 may issue a written finding verifying the ap-

1 proval made in accordance with this para-
2 graph.”; and

3 (3) by striking paragraph (4).

4 (g) ISSUE IDENTIFICATION AND RESOLUTION.—Sec-
5 tion 139(h)(4) is amended by adding at the end the fol-
6 lowing:

7 “(C) RESOLUTION FINAL.—

8 “(i) IN GENERAL.—The lead agency
9 and participating agencies may not recon-
10 sider the resolution of any issue agreed to
11 by the relevant agencies in a meeting
12 under subparagraph (A).

13 “(ii) COMPLIANCE WITH APPLICABLE
14 LAW.—Any such resolution shall be
15 deemed to comply with applicable law not-
16 withstanding that the agencies agreed to
17 such resolution prior to the approval of the
18 environmental document.”.

19 (h) STREAMLINED DOCUMENTATION AND DECISION-
20 MAKING.—Section 139 is amended—

21 (1) by redesignating subsections (i) through (l)
22 as subsections (k) through (n), respectively; and

23 (2) by inserting after subsection (h) the fol-
24 lowing:

1 “(i) STREAMLINED DOCUMENTATION AND DECISION-
2 MAKING.—

3 “(1) IN GENERAL.—The lead agency in the en-
4 vironmental review process for a project, in order to
5 reduce paperwork and expedite decisionmaking, shall
6 prepare a condensed final environmental impact
7 statement.

8 “(2) CONDENSED FORMAT.—A condensed final
9 environmental impact statement for a project in the
10 environmental review process shall consist only of—

11 “(A) an incorporation by reference of the
12 draft environmental impact statement;

13 “(B) any updates to specific pages or sec-
14 tions of the draft environmental impact state-
15 ment as appropriate; and

16 “(C) responses to comments on the draft
17 environmental impact statement and copies of
18 the comments.

19 “(3) TIMING OF DECISION.—Notwithstanding
20 any other provision of law, in conducting the envi-
21 ronmental review process for a project, the lead
22 agency shall combine a final environmental impact
23 statement and a record of decision for the project
24 into a single document if—

1 “(A) the alternative approved in the record
2 of decision is either a preferred alternative that
3 was identified in the draft environmental im-
4 pact statement or is a modification of such pre-
5 ferred alternative that was developed in re-
6 sponse to comments on the draft environmental
7 impact statement;

8 “(B) the Secretary has received a certifi-
9 cation from a State under section 128, if such
10 a certification is required for the project; and

11 “(C) the Secretary determines that the
12 lead agency, participating agency, or the project
13 sponsor has committed to implement the meas-
14 ures applicable to the approved alternative that
15 are identified in the final environmental impact
16 statement.

17 “(j) SUPPLEMENTAL ENVIRONMENTAL REVIEW AND
18 RE-EVALUATION.—

19 “(1) SUPPLEMENTAL ENVIRONMENTAL RE-
20 VIEW.—After the approval of a record of decision or
21 finding of no significant impact with regard to a
22 project, an agency may not require the preparation
23 of a subsequent environmental document for such
24 project unless the lead agency determines that—

1 “(A) changes to the project will result in
2 new significant impacts that were not evaluated
3 in the environmental document; or

4 “(B) new information has become available
5 or changes in circumstances have occurred after
6 the lead agency approval of the project that will
7 result in new significant impacts that were not
8 evaluated in the environmental document.

9 “(2) RE-EVALUATIONS.—The Secretary may
10 only require the re-evaluation of a document pre-
11 pared under the National Environmental Policy Act
12 of 1969 (42 U.S.C. 4321 et seq.) if—

13 “(A) the Secretary determines that the
14 events in paragraph (1)(A) or (1)(B) apply; and

15 “(B) more than 5 years has elapsed since
16 the Secretary’s prior approval of the project or
17 authorization of project funding.

18 “(3) CHANGE TO RECORD OF DECISION.—After
19 the approval of a record of decision, the Secretary
20 may not require the record of decision to be changed
21 solely because of a change in the fiscal cir-
22 cumstances surrounding the project.”.

23 (i) REGULATIONS.—Section 139(m) (as redesignated
24 by subsection (h)(1) of this section) is further amended
25 to read as follows:

1 “(m) REGULATIONS.—

2 “(1) IN GENERAL.—Not later than 1 year after
3 the date of enactment of the Surface Transportation
4 Extension Act of 2012, Part II, the Secretary, by
5 regulation, shall—

6 “(A) implement this section; and

7 “(B) establish methodologies and proce-
8 dures for evaluating the environmental impacts,
9 including cumulative impacts and growth-induc-
10 ing impacts, of transportation projects subject
11 to this section.

12 “(2) COMPLIANCE WITH APPLICABLE LAW.—

13 Any environmental document that utilizes the meth-
14 odologies and procedures established under this sub-
15 section shall be deemed to comply with the applica-
16 ble requirements of—

17 “(A) the National Environmental Policy
18 Act of 1969 (42 U.S.C. 4321 et seq.) or its im-
19 plementing regulations; or

20 “(B) any other Federal environmental
21 statute applicable to transportation projects.”.

22 **SEC. 610. DISPOSAL OF HISTORIC PROPERTIES.**

23 (a) DISPOSAL OF HISTORIC PROPERTIES.—Section
24 156 is amended—

1 (1) by striking the section heading and insert-
2 ing “**Sale or lease of real property**”; and

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

4 “(d) ASSESSMENT OF ADVERSE EFFECTS.—Notwith-
5 standing part 800 of title 36, Code of Federal Regula-
6 tions, the sale or lease by a State of any historic property
7 that is not listed in the National Register of Historic
8 Places shall not be considered an adverse effect to the
9 property within any consultation process carried out under
10 section 106 of the National Historic Preservation Act (16
11 U.S.C. 470f).”.

12 (b) CLERICAL AMENDMENT.—The analysis for chap-
13 ter 1 is amended by striking the item relating to section
14 156 and inserting the following:

“156. Sale or lease of real property.”.

15 **SEC. 611. INTEGRATION OF PLANNING AND ENVIRON-**
16 **MENTAL REVIEW.**

17 (a) IN GENERAL.—Chapter 1 is amended by adding
18 at the end the following:

19 “**§ 167. Integration of planning and environmental re-**
20 **view**

21 “(a) DEFINITIONS.—In this section, the following
22 definitions apply:

23 “(1) ENVIRONMENTAL REVIEW PROCESS.—

24 “(A) IN GENERAL.—The term ‘environ-
25 mental review process’ means the process for

1 preparing for a project an environmental impact
2 statement, environmental assessment, categor-
3 ical exclusion, or other document prepared
4 under the National Environmental Policy Act of
5 1969 (42 U.S.C. 4321 et seq.).

6 “(B) INCLUSIONS.—The term ‘environ-
7 mental review process’ includes the process for
8 and completion of any environmental permit,
9 approval, review, or study required for a project
10 under any Federal law other than the National
11 Environmental Policy Act of 1969 (42 U.S.C.
12 4321 et seq.).

13 “(2) PLANNING PRODUCT.—The term ‘planning
14 product’ means any decision, analysis, study, or
15 other documented result of an evaluation or deci-
16 sionmaking process carried out during transpor-
17 tation planning.

18 “(3) PROJECT.—The term ‘project’ means any
19 highway project or program of projects, public trans-
20 portation capital project or program of projects, or
21 multimodal project or program of projects that re-
22 quires the approval of the Secretary.

23 “(4) PROJECT SPONSOR.—The term ‘project
24 sponsor’ means the agency or other entity, including

1 any private or public-private entity, that seeks ap-
2 proval of the Secretary for a project.

3 “(b) PURPOSE AND FINDINGS.—

4 “(1) PURPOSE.—The purpose of this section is
5 to establish the authority and provide procedures for
6 achieving integrated planning and environmental re-
7 view processes to—

8 “(A) enable statewide and metropolitan
9 planning processes to more effectively serve as
10 the foundation for project decisions;

11 “(B) foster better decisionmaking;

12 “(C) reduce duplication in work;

13 “(D) avoid delays in transportation im-
14 provements; and

15 “(E) better transportation and environ-
16 mental results for communities and the United
17 States.

18 “(2) FINDINGS.—Congress finds the following:

19 “(A) This section is consistent with and is
20 adopted in furtherance of sections 101 and 102
21 of the National Environmental Policy Act of
22 1969 (42 U.S.C. 4331 and 4332) and section
23 109 of this title.

24 “(B) This section should be broadly con-
25 strued and may be applied to any project, class

1 of projects, or program of projects carried out
2 under this title or chapter 53 of title 49.

3 “(c) ADOPTION OF PLANNING PRODUCTS FOR USE
4 IN NEPA PROCEEDINGS.—

5 “(1) IN GENERAL.—Notwithstanding any other
6 provision of law and subject to the conditions set
7 forth in subsection (e), the Federal lead agency for
8 a project, at the request of the project sponsors, may
9 adopt and use a planning product in proceedings re-
10 lating to any class of action in the environmental re-
11 view process of the project.

12 “(2) PARTIAL ADOPTION OF PLANNING PROD-
13 UCTS.—The Federal lead agency may adopt a plan-
14 ning product under paragraph (1) in its entirety or
15 may select portions for adoption.

16 “(3) TIMING.—A determination under para-
17 graph (1) with respect to the adoption of a planning
18 product shall be made at the time the lead agencies
19 decide the appropriate scope of environmental review
20 for the project.

21 “(d) APPLICABILITY.—

22 “(1) PLANNING DECISIONS.—Planning deci-
23 sions that may be adopted pursuant to this section
24 include—

1 “(A) a purpose and need or goals and ob-
2 jectives statement for the project, including
3 with respect to whether tolling, private financial
4 assistance, or other special financial measures
5 are necessary to implement the project;

6 “(B) a decision with respect to travel cor-
7 ridor location, including project termini;

8 “(C) a decision with respect to modal
9 choice, including a decision to implement cor-
10 ridor or subarea study recommendations to ad-
11 vance different modal solutions as separate
12 projects with independent utility;

13 “(D) a decision with respect to the elimi-
14 nation of unreasonable alternatives and the se-
15 lection of the range of reasonable alternatives
16 for detailed study during the environmental re-
17 view process;

18 “(E) a basic description of the environ-
19 mental setting;

20 “(F) a decision with respect to methodolo-
21 gies for analysis; and

22 “(G) identifications of programmatic level
23 mitigation for potential impacts that the Fed-
24 eral lead agency, in consultation with Federal,
25 State, local, and tribal resource agencies, deter-

1 mines are most effectively addressed at a re-
2 gional or national program level, including—

3 “(i) system-level measures to avoid,
4 minimize, or mitigate impacts of proposed
5 transportation investments on environ-
6 mental resources, including regional eco-
7 system and water resources; and

8 “(ii) potential mitigation activities, lo-
9 cations, and investments.

10 “(2) PLANNING ANALYSES.—Planning analyses
11 that may be adopted pursuant to this section include
12 studies with respect to—

13 “(A) travel demands;

14 “(B) regional development and growth;

15 “(C) local land use, growth management,
16 and development;

17 “(D) population and employment;

18 “(E) natural and built environmental con-
19 ditions;

20 “(F) environmental resources and environ-
21 mentally sensitive areas;

22 “(G) potential environmental effects, in-
23 cluding the identification of resources of con-
24 cern and potential cumulative effects on those

1 resources, identified as a result of a statewide
2 or regional cumulative effects assessment; and

3 “(H) mitigation needs for a proposed ac-
4 tion, or for programmatic level mitigation, for
5 potential effects that the Federal lead agency
6 determines are most effectively addressed at a
7 regional or national program level.

8 “(e) CONDITIONS.—Adoption and use of a planning
9 product under this section is subject to a determination
10 by the Federal lead agency, in consultation with joint lead
11 agencies and project sponsors as appropriate, that the fol-
12 lowing conditions have been met:

13 “(1) The planning product was developed
14 through a planning process conducted pursuant to
15 applicable Federal law.

16 “(2) The planning process included broad mul-
17 tidisciplinary consideration of systems-level or cor-
18 ridor-wide transportation needs and potential effects.

19 “(3) During the planning process, notice was
20 provided through publication or other means to Fed-
21 eral, State, and local government agencies and tribal
22 governments that might have an interest in the pro-
23 posed project, and to members of the general public,
24 of the planning products that the planning process
25 might produce and that might be relied on during

1 the environmental review process, and such entities
2 have been provided an appropriate opportunity to
3 participate in the planning process leading to such
4 planning product.

5 “(4) Prior to determining the scope of environ-
6 mental review for the project, the joint lead agencies
7 have made documentation relating to the planning
8 product available to Federal, State, and local gov-
9 ernmental agencies and tribal governments that may
10 have an interest in the proposed action, and to mem-
11 bers of the general public.

12 “(5) There is no significant new information or
13 new circumstance that has a reasonable likelihood of
14 affecting the continued validity or appropriateness of
15 the planning product.

16 “(6) The planning product is based on reliable
17 and reasonably current data and reasonable and sci-
18 entifically acceptable methodologies.

19 “(7) The planning product is documented in
20 sufficient detail to support the decision or the re-
21 sults of the analysis and to meet requirements for
22 use of the information in the environmental review
23 process.

1 “(8) The planning product is appropriate for
2 adoption and use in the environmental review pro-
3 cess for the project.

4 “(f) EFFECT OF ADOPTION.—Notwithstanding any
5 other provision of law, any planning product adopted by
6 the Federal lead agency in accordance with this section
7 shall not be reconsidered or made the subject of additional
8 interagency consultation during the environmental review
9 process of the project unless the Federal lead agency, in
10 consultation with joint lead agencies and project sponsors
11 as appropriate, determines that there is significant new
12 information or new circumstances that affect the contin-
13 ued validity or appropriateness of the adopted planning
14 product. Any planning product adopted by the Federal
15 lead agency in accordance with this section may be relied
16 upon and used by other Federal agencies in carrying out
17 reviews of the project.

18 “(g) RULE OF CONSTRUCTION.—This section may
19 not be construed to make the National Environmental Pol-
20 icy Act of 1969 (42 U.S.C. 4321 et seq.) process applica-
21 ble to the transportation planning process conducted
22 under chapter 52 of title 49. Initiation of the National
23 Environmental Policy Act of 1969 process as a part of,
24 or concurrently with, transportation planning activities
25 does not subject transportation plans and programs to the

1 National Environmental Policy Act of 1969 process. This
 2 section may not be construed to affect the use of planning
 3 products in the National Environmental Policy Act of
 4 1969 process pursuant to other authorities under law or
 5 to restrict the initiation of the National Environmental
 6 Policy Act of 1969 process during planning.”.

7 (b) CLERICAL AMENDMENT.—The analysis for such
 8 chapter is amended by adding at end the following:

“167. Integration of planning and environmental review.”.

9 **SEC. 612. DEVELOPMENT OF PROGRAMMATIC MITIGATION**
 10 **PLANS.**

11 (a) IN GENERAL.—Chapter 1 (as amended by this
 12 title) is further amended by adding at the end the fol-
 13 lowing:

14 **“§ 168. Development of programmatic mitigation**
 15 **plans**

16 “(a) IN GENERAL.—As part of the statewide or met-
 17 ropolitan transportation planning process, a State or met-
 18 ropolitan planning organization may develop one or more
 19 programmatic mitigation plans to address the potential
 20 environmental impacts of future transportation projects.

21 “(b) SCOPE.—

22 “(1) SCALE.—A programmatic mitigation plan
 23 may be developed on a regional, ecosystem, water-
 24 shed, or statewide scale.

1 “(2) RESOURCES.—The plan may encompass
2 multiple environmental resources within a defined
3 geographic area or may focus on a specific resource,
4 such as aquatic resources, parklands, or wildlife
5 habitat.

6 “(3) PROJECT IMPACTS.—The plan may ad-
7 dress impacts from all projects in a defined geo-
8 graphic area or may focus on a specific type of
9 project, such as bridge replacements.

10 “(4) CONSULTATION.—The scope of the plan
11 shall be determined by the State or metropolitan
12 planning organization, as appropriate, in consulta-
13 tion with the agency or agencies with jurisdiction
14 over the resources being addressed in the mitigation
15 plan.

16 “(c) CONTENTS.—A programmatic mitigation plan
17 may include—

18 “(1) an assessment of the condition of environ-
19 mental resources in the geographic area covered by
20 the plan, including an assessment of recent trends
21 and any potential threats to those resources;

22 “(2) an assessment of potential opportunities to
23 improve the overall quality of environmental re-
24 sources in the geographic area covered by the plan,

1 through strategic mitigation for impacts of transpor-
2 tation projects;

3 “(3) standard measures for mitigating certain
4 types of impacts;

5 “(4) parameters for determining appropriate
6 mitigation for certain types of impacts, such as miti-
7 gation ratios or criteria for determining appropriate
8 mitigation sites;

9 “(5) adaptive management procedures, such as
10 protocols that involve monitoring predicted impacts
11 over time and adjusting mitigation measures in re-
12 sponse to information gathered through the moni-
13 toring; and

14 “(6) acknowledgment of specific statutory or
15 regulatory requirements that must be satisfied when
16 determining appropriate mitigation for certain types
17 of resources.

18 “(d) PROCESS.—Before adopting a programmatic
19 mitigation plan, a State or metropolitan planning organi-
20 zation shall—

21 “(1) consult with the agency or agencies with
22 jurisdiction over the environmental resources consid-
23 ered in the programmatic mitigation plan;

1 “(2) make a draft of the plan available for re-
2 view and comment by applicable environmental re-
3 source agencies and the public;

4 “(3) consider any comments received from such
5 agencies and the public on the draft plan; and

6 “(4) address such comments in the final plan.

7 “(e) INTEGRATION WITH OTHER PLANS.—A pro-
8 grammatic mitigation plan may be integrated with other
9 plans, including watershed plans, ecosystem plans, species
10 recovery plans, growth management plans, and land use
11 plans.

12 “(f) CONSIDERATION IN PROJECT DEVELOPMENT
13 AND PERMITTING.—If a programmatic mitigation plan
14 has been developed pursuant to this section, any Federal
15 agency responsible for environmental reviews, permits, or
16 approvals for a transportation project shall give substan-
17 tial weight to the recommendations in a programmatic
18 mitigation plan when carrying out their responsibilities
19 under applicable laws.

20 “(g) PRESERVATION OF EXISTING AUTHORITIES.—
21 Nothing in this section limits the use of programmatic ap-
22 proaches to reviews under the National Environmental
23 Policy Act of 1969 (42 U.S.C. 4321 et seq.).”.

1 (b) CLERICAL AMENDMENT.—The analysis for such
2 chapter (as amended by this title) is further amended by
3 adding at the end the following:

“168. Development of programmatic mitigation plans.”.

4 **SEC. 613. STATE ASSUMPTION OF RESPONSIBILITY FOR**
5 **CATEGORICAL EXCLUSIONS.**

6 Section 326(a) is amended—

7 (1) in paragraph (2) by striking “and only for
8 types of activities specifically designated by the Sec-
9 retary” and inserting “and for any type of activity
10 for which a categorical exclusion classification is ap-
11 propriate”; and

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

13 “(4) PRESERVATION OF FLEXIBILITY.—The
14 Secretary shall not require a State, as a condition of
15 assuming responsibility under this section, to forego
16 project delivery methods that are otherwise permis-
17 sible for highway projects.”.

18 **SEC. 614. SURFACE TRANSPORTATION PROJECT DELIVERY**
19 **PROGRAM.**

20 (a) PROGRAM NAME.—Section 327 is amended—

21 (1) in the section heading by striking “**pilot**”;
22 and

23 (2) in subsection (a)(1) by striking “pilot”.

24 (b) ASSUMPTION OF RESPONSIBILITY.—Section
25 327(a)(2) is amended—

1 (1) in subparagraph (A) by striking “highway”;

2 (2) in subparagraph (B) by striking clause (ii)

3 and inserting the following:

4 “(ii) the Secretary may not assign any
5 responsibility imposed on the Secretary by
6 section 134 or 135 or section 5303 or
7 5304 of title 49.”; and

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

9 “(F) PRESERVATION OF FLEXIBILITY.—
10 The Secretary may not require a State, as a
11 condition of participation in the program, to
12 forego project delivery methods that are other-
13 wise permissible for projects.”.

14 (c) STATE PARTICIPATION.—Section 327(b) is
15 amended—

16 (1) by amending paragraph (1) to read as fol-
17 lows:

18 “(1) PARTICIPATING STATES.—All States are
19 eligible to participate in the program.”; and

20 (2) in paragraph (2) by striking “this section,
21 the Secretary shall promulgate” and inserting
22 “amendments to this section by the Surface Trans-
23 portation Extension Act of 2012, Part II, the Sec-
24 retary shall amend, as appropriate,”.

1 (d) WRITTEN AGREEMENT.—Section 327(e) is
2 amended—

3 (1) in paragraph (3)(D) by striking the period
4 at the end and inserting a semicolon; and

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

6 “(4) have a term of not more than 5 years; and

7 “(5) be renewable.”.

8 (e) CONFORMING AMENDMENT.—Section 327(e) is
9 amended by striking “subsection (i)” and inserting “sub-
10 section (j)”.

11 (f) AUDITS.—Section 327(g)(1)(B) is amended by
12 striking “subsequent year” and inserting “of the third and
13 fourth years”.

14 (g) MONITORING.—Section 327 is further amended—

15 (1) by redesignating subsections (h) and (i) as
16 subsections (i) and (j), respectively; and

17 (2) by inserting after subsection (g) the fol-
18 lowing:

19 “(h) MONITORING.—After the fourth year of the par-
20 ticipation of a State in the program, the Secretary shall
21 monitor compliance by the State with the written agree-
22 ment, including the provision by the State of financial re-
23 sources to carry out the written agreement.”.

1 (h) TERMINATION.—Section 327(j) (as redesignated
2 by subsection (g)(1) of this section) is amended to read
3 as follows:

4 “(j) TERMINATION.—The Secretary may terminate
5 the participation of any State in the program if—

6 “(1) the Secretary determines that the State is
7 not adequately carrying out the responsibilities as-
8 signed to the State;

9 “(2) the Secretary provides to the State—

10 “(A) notification of the determination of
11 noncompliance; and

12 “(B) a period of at least 30 days during
13 which to take such corrective action as the Sec-
14 retary determines is necessary to comply with
15 the applicable agreement; and

16 “(3) the State, after the notification and period
17 provided under paragraph (2), fails to take satisfac-
18 tory corrective action, as determined by the Sec-
19 retary.”.

20 (i) DEFINITIONS.—Section 327 is amended by adding
21 at the end the following:

22 “(k) DEFINITIONS.—In this section, the following
23 definitions apply:

24 “(1) MULTIMODAL PROJECT.—The term
25 ‘multimodal project’ means a project funded, in

1 whole or in part, under this title or chapter 53 of
2 title 49 and involving the participation of more than
3 one Department of Transportation administration or
4 agency.

5 “(2) PROJECT.—The term ‘project’ means any
6 highway project, public transportation capital
7 project, or multimodal project that requires the ap-
8 proval of the Secretary.”.

9 (j) CLERICAL AMENDMENT.—The analysis for chap-
10 ter 3 is amended by striking the item relating to section
11 327 and inserting the following:

“327. Surface transportation project delivery program.”.

12 **SEC. 615. PROGRAM FOR ELIMINATING DUPLICATION OF**
13 **ENVIRONMENTAL REVIEWS.**

14 (a) IN GENERAL.—Chapter 3 is amended by adding
15 at the end the following:

16 **“§ 330. Program for eliminating duplication of envi-**
17 **ronmental reviews**

18 “(a) ESTABLISHMENT.—

19 “(1) IN GENERAL.—The Secretary shall estab-
20 lish a program to eliminate duplicative environ-
21 mental reviews and approvals under State and Fed-
22 eral law of projects. Under this program, a State
23 may use State laws and procedures to conduct re-
24 views and make approvals in lieu of Federal environ-

1 mental laws and regulations, consistent with the pro-
2 visions of this section.

3 “(2) PARTICIPATING STATES.—All States are
4 eligible to participate in the program.

5 “(3) SCOPE OF ALTERNATIVE REVIEW AND AP-
6 PROVAL PROCEDURES.—For purposes of this sec-
7 tion, alternative environmental review and approval
8 procedures may include one or more of the following:

9 “(A) Substitution of one or more State en-
10 vironmental laws for one or more Federal envi-
11 ronmental laws, if the Secretary determines in
12 accordance with this section that the State envi-
13 ronmental laws provide environmental protec-
14 tion and opportunities for public involvement
15 that are substantially equivalent to the applica-
16 ble Federal environmental laws.

17 “(B) Substitution of one or more State
18 regulations for Federal regulations imple-
19 menting one or more Federal environmental
20 laws, if the Secretary determines in accordance
21 with this section that the State regulations pro-
22 vide environmental protection and opportunities
23 for public involvement that are substantially
24 equivalent to the Federal regulations.

1 “(b) APPLICATION.—To participate in the program,
2 a State shall submit to the Secretary an application con-
3 taining such information as the Secretary may require, in-
4 cluding—

5 “(1) a full and complete description of the pro-
6 posed alternative environmental review and approval
7 procedures of the State;

8 “(2) for each State law or regulation included
9 in the proposed alternative environmental review and
10 approval procedures of the State, an explanation of
11 the basis for concluding that the law or regulation
12 meets the requirements under subsection (a)(3); and

13 “(3) evidence of having sought, received, and
14 addressed comments on the proposed application
15 from the public and appropriate Federal environ-
16 mental resource agencies.

17 “(c) REVIEW OF APPLICATION.—The Secretary
18 shall—

19 “(1) review an application submitted under sub-
20 section (b);

21 “(2) approve or disapprove the application in
22 accordance with subsection (d) not later than 90
23 days after the date of the receipt of the application;
24 and

1 “(3) transmit to the State notice of the ap-
2 proval or disapproval, together with a statement of
3 the reasons for the approval or disapproval.

4 “(d) APPROVAL OF STATE PROGRAMS.—

5 “(1) IN GENERAL.—The Secretary shall ap-
6 prove each such application if the Secretary finds
7 that the proposed alternative environmental review
8 and approval procedures of the State are substan-
9 tially equivalent to the applicable Federal environ-
10 mental laws and Federal regulations.

11 “(2) EXCLUSION.—The National Environ-
12 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
13 and the Endangered Species Act of 1973 (16 U.S.C.
14 1531 et seq.) shall not apply to any decision by the
15 Secretary to approve or disapprove any application
16 submitted pursuant to this section.

17 “(e) COMPLIANCE WITH PERMITS.—Compliance with
18 a permit or other approval of a project issued pursuant
19 to a program approved by the Secretary under this section
20 shall be deemed compliance with the Federal laws and reg-
21 ulations identified in the program approved by the Sec-
22 retary pursuant to this section.

23 “(f) REVIEW AND TERMINATION.—

24 “(1) REVIEW.—All State alternative environ-
25 mental review and approval procedures approved

1 under this section shall be reviewed by the Secretary
2 not less than once every 5 years.

3 “(2) PUBLIC NOTICE AND COMMENT.—In con-
4 ducting the review process under paragraph (1), the
5 Secretary shall provide notice and an opportunity for
6 public comment.

7 “(3) EXTENSIONS AND TERMINATIONS.—At the
8 conclusion of the review process, the Secretary may
9 extend the State alternative environmental review
10 and approval procedures for an additional 5-year pe-
11 riod or terminate the State program.

12 “(g) REPORT TO CONGRESS.—Not later than 2 years
13 after the date of enactment of this section and annually
14 thereafter, the Secretary shall submit to Congress a report
15 that describes the administration of the program.

16 “(h) DEFINITIONS.—For purposes of this section:

17 “(1) ENVIRONMENTAL LAW.—The term ‘envi-
18 ronmental law’ includes any law that provides proce-
19 dural or substantive protection, as applicable, for the
20 natural or built environment with regard to the con-
21 struction and operation of projects.

22 “(2) FEDERAL ENVIRONMENTAL LAWS.—The
23 term ‘Federal environmental laws’ means laws gov-
24 erning the review of environmental impacts of, and
25 issuance of permits and other approvals for, the con-

1 construction and operation of projects, including section
2 102(2)(C) of the National Environmental Policy Act
3 of 1969 (42 U.S.C. 4332(2)(C)), section 404 of the
4 Federal Water Pollution Control Act (33 U.S.C.
5 1344), section 106 of the National Historic Preser-
6 vation Act (16 U.S.C. 470f), and sections 7(a)(2),
7 9(a)(1)(B), and 10(a)(1)(B) of the Endangered Spe-
8 cies Act of 1973 (16 U.S.C. 1536(a)(2),
9 1538(a)(1)(B), 1539(a)(1)(B)).

10 “(3) MULTIMODAL PROJECT.—The term
11 ‘multimodal project’ means a project funded, in
12 whole or in part, under this title or chapter 53 of
13 title 49 and involving the participation of more than
14 one Department of Transportation administration or
15 agency.

16 “(4) PROJECT.—The term ‘project’ means any
17 highway project, public transportation capital
18 project, or multimodal project that requires the ap-
19 proval of the Secretary.”.

20 (b) CLERICAL AMENDMENT.—The analysis for such
21 chapter (as amended by title I of this Act) is further
22 amended by adding at the end the following:

“330. Program for eliminating duplication of environmental reviews.”.

1 **SEC. 616. STATE PERFORMANCE OF LEGAL SUFFICIENCY**
2 **REVIEWS.**

3 (a) IN GENERAL.—Chapter 3 (as amended by this
4 title) is further amended by adding at the end the fol-
5 lowing:

6 **“§ 331. State performance of legal sufficiency reviews**

7 “(a) IN GENERAL.—At the request of any State
8 transportation department, the Federal Highway Adminis-
9 tration shall enter into an agreement with the State trans-
10 portation department to authorize the State to carry out
11 the legal sufficiency reviews for environmental impact
12 statements and environmental assessments under the Na-
13 tional Environmental Policy Act of 1969 (42 U.S.C. 4321
14 et seq.) in accordance with this section.

15 “(b) TERMS OF AGREEMENT.—An agreement au-
16 thorizing a State to carry out legal sufficiency reviews for
17 Federal-aid highway projects shall contain the following
18 provisions:

19 “(1) A finding by the Federal Highway Admin-
20 istration that the State has the capacity to carry out
21 legal sufficiency reviews that are equivalent in qual-
22 ity and consistency to the reviews that would other-
23 wise be conducted by attorneys employed by such
24 Administration.

25 “(2) An oversight process, including periodic re-
26 views conducted by attorneys employed by such Ad-

1 ministration, to evaluate the quality of the legal suf-
2 ficiency reviews carried out by the State transpor-
3 tation department under the agreement.

4 “(3) A requirement for the State transportation
5 department to submit a written finding of legal suf-
6 ficiency to the Federal Highway Administration con-
7 currently with the request by the State for Federal
8 approval of the National Environmental Policy Act
9 of 1969 (42 U.S.C. 4321 et seq.) document.

10 “(4) An opportunity for the Federal Highway
11 Administration to conduct an additional legal suffi-
12 ciency review for any project, for not more than 30
13 days, if considered necessary by the Federal High-
14 way Administration.

15 “(5) Procedures allowing either party to the
16 agreement to terminate the agreement for any rea-
17 son with 30 days notice to the other party.

18 “(c) EFFECT OF AGREEMENT.—A legal sufficiency
19 review carried out by a State transportation department
20 under this section shall be deemed by the Federal High-
21 way Administration to satisfy the requirement for a legal
22 sufficiency review in sections 771.125(b) and 774.7(d) of
23 title 23, Code of Federal Regulations, or other applicable
24 regulations issued by the Federal Highway Administra-
25 tion.”.

1 (b) CLERICAL AMENDMENT.—The analysis for such
2 chapter (as amended by this title) is further amended by
3 adding at the end the following:

“331. State performance of legal sufficiency reviews.”.

4 **SEC. 617. CATEGORICAL EXCLUSIONS.**

5 (a) IN GENERAL.—The Secretary shall treat an activ-
6 ity carried out under title 23, United States Code, or
7 project within a right-of-way as a class of action categori-
8 cally excluded from the requirements relating to environ-
9 mental assessments or environmental impact statements
10 under section 771.117(c) of title 23, Code of Federal Reg-
11 ulations.

12 (b) DEFINITIONS.—In this section, the following defi-
13 nitions apply:

14 (1) MULTIMODAL PROJECT.—The term
15 “multimodal project” means a project funded, in
16 whole or in part, under title 23, United States Code,
17 or chapter 53 of title 49 of such Code and involving
18 the participation of more than one Department of
19 Transportation administration or agency.

20 (2) PROJECT.—The term “project” means any
21 highway project, public transportation capital
22 project, or multimodal project that requires the ap-
23 proval of the Secretary.

24 **SEC. 618. ENVIRONMENTAL REVIEW PROCESS DEADLINE.**

25 (a) IN GENERAL.—

1 (1) DEADLINE.—Notwithstanding any other
2 provision of law, the environmental review process
3 for a project shall be completed not later than 270
4 days after the date on which the notice of project
5 initiation under section 139(e) of title 23, United
6 States Code, is published in the Federal Register.

7 (2) CONSEQUENCES OF MISSED DEADLINE.—If
8 the environmental review process for a project is not
9 completed in accordance with paragraph (1)—

10 (A) the project shall be considered to have
11 no significant impact to the human environment
12 for purposes of the National Environmental
13 Policy Act of 1969 (42 U.S.C. 4321 et seq.);
14 and

15 (B) that classification shall be considered
16 to be a final agency action.

17 (b) DEFINITIONS.—In this section, the following defi-
18 nitions apply:

19 (1) ENVIRONMENTAL REVIEW PROCESS.—

20 (A) IN GENERAL.—The term “environ-
21 mental review process” means the process for
22 preparing for a project an environmental impact
23 statement, environmental assessment, categor-
24 ical exclusion, or other document prepared

1 under the National Environmental Policy Act of
2 1969 (42 U.S.C. 4321 et seq.).

3 (B) INCLUSIONS.—The term “environ-
4 mental review process” includes the process for
5 and completion of any environmental permit,
6 approval, review, or study required for a project
7 under any Federal law other than the National
8 Environmental Policy Act of 1969 (42 U.S.C.
9 4321 et seq.).

10 (2) LEAD AGENCY.—The term “lead agency”
11 means the Department of Transportation and, if ap-
12 plicable, any State or local governmental entity serv-
13 ing as a joint lead agency pursuant to this section.

14 (3) MULTIMODAL PROJECT.—The term
15 “multimodal project” means a project funded, in
16 whole or in part, under title 23, United States Code,
17 or chapter 53 of title 49 of such Code and involving
18 the participation of more than one Department of
19 Transportation administration or agency.

20 (4) PROJECT.—The term “project” means any
21 highway project, public transportation capital
22 project, or multimodal project that requires the ap-
23 proval of the Secretary.

1 **SEC. 619. RELOCATION ASSISTANCE.**

2 (a) ALTERNATIVE RELOCATION PAYMENT PROC-
3 ESS.—

4 (1) ESTABLISHMENT.—For the purpose of
5 identifying improvements in the timeliness of pro-
6 viding relocation assistance to persons displaced as
7 a result of Federal or federally-assisted programs
8 and projects, the Secretary shall establish an alter-
9 native relocation payment process under which pay-
10 ments to displaced persons eligible for relocation as-
11 sistance pursuant to the Uniform Relocation Assist-
12 ance and Real Property Acquisition Policies Act of
13 1970 (42 U.S.C. 4601 et seq.), are calculated based
14 on reasonable estimates and paid in advance of the
15 physical displacement of the displaced person.

16 (2) PAYMENTS.—

17 (A) TIMING OF PAYMENTS.—Relocation as-
18 sistance payments may be provided to the dis-
19 placed person at the same time as payments of
20 just compensation for real property acquired for
21 a program or project of the State.

22 (B) COMBINED PAYMENT.—Payments for
23 relocation and just compensation may be com-
24 bined into a single unallocated amount.

25 (3) CONDITIONS FOR STATE USE OF ALTER-
26 NATIVE PROCESS.—

1 (A) IN GENERAL.—After public notice and
2 an opportunity to comment, the Secretary shall
3 adopt criteria for States to use the alternative
4 relocation payment process established by the
5 Secretary.

6 (B) MEMORANDUM OF AGREEMENT.—In
7 order to use the alternative relocation payment
8 process, a State shall enter into a memorandum
9 of agreement with the Secretary that includes
10 provisions relating to—

11 (i) the selection of projects or pro-
12 grams within the State to which the alter-
13 native relocation payment process will be
14 applied;

15 (ii) program and project-level moni-
16 toring;

17 (iii) performance measurement;

18 (iv) reporting requirements; and

19 (v) the circumstances under which the
20 Secretary may terminate or suspend the
21 authority of the State to use the alter-
22 native relocation payment process.

23 (C) REQUIRED INFORMATION.—A State
24 may use the alternative relocation payment

1 process only after the displaced persons affected
2 by a program or project—

3 (i) are informed in writing—

4 (I) that the relocation payments
5 the displaced persons receive under
6 the alternative relocation payment
7 process may be higher or lower than
8 the amount that the displaced persons
9 would have received under the stand-
10 ard relocation assistance process; and

11 (II) of their right not to partici-
12 pate in the alternative relocation pay-
13 ment process; and

14 (ii) agree in writing to the alternative
15 relocation payment process.

16 (D) ELECTION NOT TO PARTICIPATE.—

17 The displacing agency shall provide any dis-
18 placed person who elects not to participate in
19 the alternative relocation payment process with
20 relocation assistance in accordance with the
21 Uniform Relocation Assistance and Real Prop-
22 erty Acquisition Policies Act of 1970 (42
23 U.S.C. 4601 et seq.).

24 (4) PROTECTIONS AGAINST INCONSISTENT
25 TREATMENT.—If other Federal agencies plan dis-

1 placements in or adjacent to an area of a project
2 using the alternative relocation payment process
3 within the same time period as a project acquisition
4 and relocation action of the project, the Secretary
5 shall adopt measures to protect against inconsistent
6 treatment of displaced persons. Such measures may
7 include a determination that the alternative reloca-
8 tion payment process authority may not be used on
9 a specific project.

10 (5) REPORT.—

11 (A) IN GENERAL.—The Secretary shall
12 submit to Congress an annual report on the im-
13 plementation of the alternative relocation pay-
14 ment process.

15 (B) CONTENTS.—The report shall include
16 an evaluation of the merits of the alternative
17 relocation payment process, including the ef-
18 fects of the alternative relocation payment proc-
19 ess on—

20 (i) displaced persons and the protec-
21 tions afforded to such persons by the Uni-
22 form Relocation Assistance and Real Prop-
23 erty Acquisition Policies Act of 1970 (42
24 U.S.C. 4601 et seq.);

1 (ii) the efficiency of the delivery of
2 Federal-aid highway projects and overall
3 effects on the Federal-aid highway pro-
4 gram; and

5 (iii) the achievement of the purposes
6 of the Uniform Relocation Assistance and
7 Real Property Acquisition Policies Act of
8 1970 (42 U.S.C. 4601 et seq.).

9 (6) LIMITATION.—The alternative relocation
10 payment process under this section may be used only
11 on projects funded under title 23, United States
12 Code, in cases in which the funds are administered
13 by the Federal Highway Administration.

14 (7) NEPA APPLICABILITY.—Notwithstanding
15 any other provision of law, the use of the alternative
16 relocation payment process established under this
17 section on a project funded under title 23, United
18 States Code, and administered by the Federal High-
19 way Administration is not a major Federal action re-
20 quiring analysis or approval under the National En-
21 vironmental Policy Act of 1969 (42 U.S.C. 4321 et
22 seq.).

23 (b) UNIFORM RELOCATION ASSISTANCE ACT
24 AMENDMENTS.—

1 (1) MOVING AND RELATED EXPENSES.—Sec-
2 tion 202 of the Uniform Relocation Assistance and
3 Real Property Acquisition Policies Act of 1970 (42
4 U.S.C. 4622) is amended—

5 (A) in subsection (a)(4) by striking
6 “\$10,000” and inserting “\$25,000, as adjusted
7 by regulation, in accordance with section
8 213(d)”; and

9 (B) in the second sentence of subsection
10 (c) by striking “\$20,000” and inserting
11 “\$40,000, as adjusted by regulation, in accord-
12 ance with section 213(d)”.

13 (2) REPLACEMENT HOUSING FOR HOME-
14 OWNERS.—The first sentence of section 203(a)(1) of
15 the Uniform Relocation Assistance and Real Prop-
16 erty Acquisition Policies Act of 1970 (42 U.S.C.
17 4623(a)(1)) is amended by—

18 (A) striking “\$22,500” and inserting
19 “\$31,000, as adjusted by regulation, in accord-
20 ance with section 213(d),”; and

21 (B) striking “one hundred and eighty days
22 prior to” and inserting “90 days before”.

23 (3) REPLACEMENT HOUSING FOR TENANTS
24 AND CERTAIN OTHERS.—Section 204 of the Uniform

1 Relocation Assistance and Real Property Acquisition
2 Policies Act of 1970 (42 U.S.C. 4624) is amended—

3 (A) in the second sentence of subsection
4 (a) by striking “\$5,250” and inserting “\$7,200,
5 as adjusted by regulation, in accordance with
6 section 213(d)”;

7 (B) in the second sentence of subsection
8 (b) by striking “, except” and all that follows
9 through the end of the subsection and inserting
10 a period.

11 (4) DUTIES OF LEAD AGENCY.—Section 213 of
12 the Uniform Relocation Assistance and Real Prop-
13 erty Acquisition Policies Act of 1970 (42 U.S.C.
14 4633) is amended—

15 (A) in subsection (b)—

16 (i) in paragraph (2) by striking
17 “and”;

18 (ii) in paragraph (3) by striking the
19 period and inserting “; and”; and

20 (iii) by adding at the end the fol-
21 lowing:

22 “(4) that each Federal agency that has pro-
23 grams or projects requiring the acquisition of real
24 property or causing a displacement from real prop-
25 erty subject to the provisions of this Act shall pro-

1 vide to the lead agency an annual summary report
2 that describes the activities conducted by the Fed-
3 eral agency.”; and

4 (B) by adding at the end the following:

5 “(d) ADJUSTMENT OF PAYMENTS.—The head of the
6 lead agency may adjust, by regulation, the amounts of re-
7 location payments provided under sections 202(a)(4),
8 202(c), 203(a), and 204(a) if the head of the lead agency
9 determines that cost of living, inflation, or other factors
10 indicate that the payments should be adjusted to meet the
11 policy objectives of this Act.”.

12 (5) AGENCY COORDINATION.—Title II of the
13 Uniform Relocation Assistance and Real Property
14 Acquisition Policies Act of 1970 (42 U.S.C. 4601 et
15 seq.) is amended by inserting after section 213 (42
16 U.S.C. 4633) the following:

17 **“SEC. 214. AGENCY COORDINATION.**

18 “(a) AGENCY CAPACITY.—Each Federal agency re-
19 sponsible for funding or carrying out relocation and acqui-
20 sition activities shall have adequately trained personnel
21 and such other resources as are necessary to manage and
22 oversee the relocation and acquisition program of the Fed-
23 eral agency in accordance with this Act.

24 “(b) INTERAGENCY AGREEMENTS.—Not later than 1
25 year after the date of the enactment of this section, each

1 Federal agency responsible for funding relocation and ac-
2 quisition activities (other than the agency serving as the
3 lead agency) shall enter into a memorandum of under-
4 standing with the lead agency that—

5 “(1) provides for periodic training of the per-
6 sonnel of the Federal agency, which in the case of
7 a Federal agency that provides Federal financial as-
8 sistance, may include personnel of any displacing
9 agency that receives Federal financial assistance;

10 “(2) addresses ways in which the lead agency
11 may provide assistance and coordination to the Fed-
12 eral agency relating to compliance with this Act on
13 a program or project basis; and

14 “(3) addresses the funding of the training, as-
15 sistance, and coordination activities provided by the
16 lead agency, in accordance with subsection (c).

17 “(c) INTERAGENCY PAYMENTS.—

18 “(1) IN GENERAL.—For the fiscal year that be-
19 gins 1 year after the date of the enactment of this
20 section, and each fiscal year thereafter, each Federal
21 agency responsible for funding relocation and acqui-
22 sition activities (other than the agency serving as the
23 lead agency) shall transfer to the lead agency for the
24 fiscal year, such funds as are necessary, but not less
25 than \$35,000, to support the training, assistance,

1 and coordination activities of the lead agency de-
2 scribed in subsection (b).

3 “(2) INCLUDED COSTS.—The cost to a Federal
4 agency of providing the funds described in para-
5 graph (1) shall be included as part of the cost of 1
6 or more programs or projects undertaken by the
7 Federal agency or with Federal financial assistance
8 that result in the displacement of persons or the ac-
9 quisition of real property.”.

10 (c) COOPERATION WITH FEDERAL AGENCIES.—Sec-
11 tion 308(a) is amended to read as follows:

12 “(a) AUTHORIZED ACTIVITIES.—

13 “(1) IN GENERAL.—The Secretary may per-
14 form, by contract or otherwise, authorized engineer-
15 ing or other services in connection with the survey,
16 construction, maintenance, or improvement of high-
17 ways for other Federal agencies, cooperating foreign
18 countries, and State cooperating agencies.

19 “(2) INCLUSIONS.—Services authorized under
20 paragraph (1) may include activities authorized
21 under section 214 of the Uniform Relocation Assist-
22 ance and Real Property Acquisition Policies Act of
23 1970 (42 U.S.C. 4601 et seq.).

24 “(3) REIMBURSEMENT.—Reimbursement for
25 services carried out under this subsection, including

1 depreciation on engineering and road-building equip-
2 ment, shall be credited to the applicable appropria-
3 tion.”.

Passed the House of Representatives April 18, 2012.

Attest:

KAREN L. HAAS,

Clerk.