To facilitate job creation by reducing regulatory uncertainty, providing for rational evaluation of regulations, providing flexibilities to States and localities, providing for infrastructure spending, and for other purposes.

A BILL

To facilitate job creation by reducing regulatory uncertainty, providing for rational evaluation of regulations, providing flexibilities to States and localities, providing for infrastructure spending, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Long-Term Surface Transportation Extension Act of 2011”.

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(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Funding

Sec. 101. Reconciliation of funds.

Subtitle B—Extension of Federal-aid Highway Programs

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

Subtitle C—Highway Trust Fund Extension

Sec. 121. Extension of trust fund expenditure authority.

Sec. 122. Extension of highway-related taxes.

Subtitle D—Accelerating Project Delivery

Sec. 131. Project delivery acceleration initiative.

Sec. 132. Efficiencies in contracting.

Sec. 133. Application of categorical exclusions for multimodal projects.

Sec. 134. Integration of planning and environmental review.

Sec. 135. National Environmental Policy Act process reforms.

Sec. 136. Clarified eligibility for early acquisition activities prior to completion of environmental review process.

Sec. 137. Surface transportation project delivery program.

Sec. 138. State assumption of responsibilities for categorical exclusions.

Sec. 139. Emergency waiver.

Sec. 140. Cement sector regulatory relief.

TITLE II—PUBLIC TRANSPORTATION

Sec. 201. Public transportation.

TITLE III—EXTENSION OF SURFACE TRANSPORTATION PROGRAMS


Sec. 302. Extension of Federal Motor Carrier Safety Administration programs.

Sec. 303. Additional programs.

TITLE IV—REGULATIONS FROM THE EXECUTIVE IN NEED OF SCRUTINY

Sec. 401. Short title.

Sec. 402. Findings and purpose.

Sec. 403. Congressional review of agency rulemaking.

TITLE V—EPA REGULATORY RELIEF

Sec. 501. Short title.

Sec. 502. Legislative stay.

Sec. 503. Compliance dates.
Sec. 101. Reconciliation of Funds.

The Secretary of Transportation shall reduce the amount apportioned or allocated for each program, project, and activity under this Act or an amendment made by this Act for fiscal year 2012 by amounts apportioned or allocated pursuant to the Surface Transportation Extension Act of 2011, Part II (Public Law 112–30; 125 Stat. 343), for the period beginning on October 1, 2011, and ending on March 4, 2012.

Subtitle B—Extension of Federal-Aid Highway Programs

Sec. 111. Extension of Federal-Aid Highway Programs.

(a) In General.—Section 111 of the Surface Transportation Extension Act of 2011, Part II (125 Stat. 343) is amended—
(1) by striking “for the period beginning on Oc-
tober 1, 2011, and ending on March 31, 2012,” each
place it appears and inserting “for each of fiscal
years 2012 and 2013”; and

(2) by striking “1/2 of” each place it appears.

(b) AUTHORIZATION DATE.—Section 111(a) of the
Surface Transportation Extension Act of 2011, Part II
(125 Stat. 343) is amended by striking “March 31, 2012”
and inserting “September 30, 2013”.

(c) USE OF FUNDS.—

(1) IN GENERAL.—Section 111(c) of the Sur-
face Transportation Extension Act of 2011, Part II
(125 Stat. 343) is amended—

(A) in the heading of paragraph (1), by
striking “FISCAL YEAR 2012” and inserting “IN
GENERAL”;

(B) in paragraph (2), by striking “The
amounts” and inserting “For each of fiscal
years 2012 and 2013, the amounts”;

(C) in paragraph (3)—

(i) in subparagraph (A), by striking
“included in an Act making appropriations
for fiscal year 2012 or” and all that fol-
 lows through the period at the end and in-
serting “included in an Act making appro-
priations for the fiscal year, or a portion of
the fiscal year, for which the funds are au-
thorized to be appropriated’’; and

(ii) in subparagraph (B)(ii), by strik-
ing “only in an amount equal to
$319,500,000” and inserting “only in an
amount equal to $639,000,000”; and

(D) by striking paragraph (4) and insert-
ing the following:

“(4) **TRANSPORTATION ENHANCEMENTS.**—

Funds shall be distributed, administered, limited,
and made available for obligation under paragraph
(1) without regard to section 133(d)(2) of title 23,
United States Code (as in effect on the day before
the date of enactment of the Long-Term Surface
Transportation Extension Act of 2011.”.

(2) **REPEAL.**—Section 133(d)(2) of title 23,
United States Code, is repealed.

(d) **EXTENSION AND FLEXIBILITY FOR CERTAIN AL-
LOCATED PROGRAMS.**—Section 111(d)(3)(B) of the Sur-
face Transportation Extension Act of 2011, Part II (125
Stat. 345) is amended by striking “Funds made available
in accordance” and inserting “For each of fiscal years
2012 and 2013, funds made available in accordance”.
(c) Extension of Authorizations Under Title V of SAFETEA-LU.—Section 111(e)(3)(B) of the Surface Transportation Extension Act of 2011, Part II (125 Stat. 345) is amended by striking “Funds” and inserting “For each of fiscal years 2012 and 2013, funds”.

(f) Administrative Expenses.—Section 112 of the Surface Transportation Extension Act of 2011, Part II (125 Stat. 346) is amended by striking “$196,427,625 for the period beginning on October 1, 2011, and ending on March 31, 2012” and inserting “$425,000,000 for each of fiscal years 2012 and 2013”.

Subtitle C—Highway Trust Fund Extension

SEC. 121. Extension of Trust Fund Expenditure Authority.

(a) Highway Trust Fund.—Section 9503 of the Internal Revenue Code of 1986 is amended—

(1) by striking “April 1, 2012” in subsections (b)(6)(B), (c)(1), and (e)(3) and inserting “October 1, 2013”; and

(2) by striking “Surface Transportation Extension Act of 2011, Part II” in subsections (c)(1) and (e)(3) and inserting “Long-Term Surface Transportation Extension Act of 2011”.
(b) Sport Fish Restoration and Boating Trust Fund.—Section 9504 of the Internal Revenue Code of 1986 is amended—

(1) by striking “Surface Transportation Extension Act of 2011, Part II” each place it appears in subsection (b)(2) and inserting “Long-Term Surface Transportation Extension Act of 2011”; and

(2) by striking “April 1, 2012” in subsection (d)(2) and inserting “October 1, 2013”.

(c) Leaking Underground Storage Tank Trust Fund.—Paragraph (2) of section 9508(e) of the Internal Revenue Code of 1986 is amended by striking “April 1, 2012” and inserting “October 1, 2013”.

(d) Effective Date.—The amendments made by this section shall take effect on April 1, 2012.


(a) In General.—

(1) Each of the following provisions of the Internal Revenue Code of 1986 is amended by striking “March 31, 2012” and inserting “September 30, 2013”:

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

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

(C) Section 4081(d)(1).
(2) Each of the following provisions of such Code is amended by striking “April 1, 2012” and inserting “October 1, 2013”:

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

(B) Section 4051(c).

(C) Section 4071(d).

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

(b) Extension of Tax, etc., on Use of Certain Heavy Vehicles.—Each of the following provisions of the Internal Revenue Code of 1986 is amended by striking “2012” and inserting “2014”:

(1) Section 4481(f).

(2) Subsections (c)(4) and (d) of section 4482.

(c) Floor Stocks Refunds.—Section 6412(a)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking “April 1, 2012” each place it appears and inserting “October 1, 2013”; and

(2) by striking “September 30, 2012” each place it appears and inserting “March 31, 2014”; and

(3) by striking “July 1, 2012” and inserting “January 1, 2014”.

(d) Extension of Certain Exemptions.—Sections 4221(a) and 4483(i) of the Internal Revenue Code
of 1986 are each amended by striking “April 1, 2012” and inserting “October 1, 2013”.

(c) Extension of Transfers of Certain Taxes.—

(1) IN GENERAL.—Section 9503 of the Internal Revenue Code of 1986 is amended—

(A) in subsection (b)—

(i) by striking “April 1, 2012” each place it appears in paragraphs (1) and (2) and inserting “October 1, 2013”;

(ii) by striking “APRIL 1, 2012” in the heading of paragraph (2) and inserting “OCTOBER 1, 2013”;

(iii) by striking “March 31, 2012” in paragraph (2) and inserting “September 30, 2013”; and

(iv) by striking “January 1, 2013” in paragraph (2) and inserting “July 1, 2014”; and

(B) in subsection (c)(2), by striking “January 1, 2013” and inserting “July 1, 2014”.

(2) Motorboat and Small-Engine Fuel Tax Transfers.—

(A) IN GENERAL.—Paragraphs (3)(A)(i) and (4)(A) of section 9503(c) of such Code are
each amended by striking “April 1, 2012” and
inserting “October 1, 2013”.

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

(i) by striking “April 1, 2013” each
place it appears and inserting “October 1,
2014”; and

(ii) by striking “April 1, 2012” and
inserting “October 1, 2013”.

(f) EFFECTIVE DATE.—The amendments made by
this section shall take effect on April 1, 2012.

Subtitle D—Accelerating Project
Delivery

SEC. 131. PROJECT DELIVERY ACCELERATION INITIATIVE.

(a) DECLARATION OF POLICY.—Congress finds
that—

(1) it is in the national interest to enable the
Secretary of Transportation (referred to in this sub-
title as “the Secretary”), State departments of
transportation, transit agencies, and all other recipi-
ents of Federal transportation funds—
(A) to accelerate project delivery acceleration and reduce costs; and

(B) to ensure that the planning, design, engineering, construction, and financing of transportation projects is done in an efficient and effective manner that—

(i) promotes accountability for public investments; and

(ii) encourages greater private sector involvement in project financing and delivery;

(2) delay in the delivery of transportation projects—

(A) increases project costs;

(B) harms the economy of the United States; and

(C) impedes the travel of the people of the United States; and

(3) the Secretary shall identify and promote the deployment of innovation aimed at reducing the time and money it takes to deliver transportation projects while enhancing safety and protecting the environment.

(b) ESTABLISHMENT OF INITIATIVE.—
(1) IN GENERAL.—To advance the policy identified in subsection (a), the Secretary shall carry out a project delivery acceleration initiative in accordance with this section.

(2) PURPOSES.—The purposes of the project delivery acceleration initiative shall be—

(A) to develop and advance the use of best practices to accelerate project delivery and reduce costs across all modes of transportation and expedite the deployment of technology and innovation;

(B) to implement statutory provisions designed to accelerate project delivery; and

(C) to select eligible projects for applying experimental features to test innovative project delivery acceleration techniques.

(3) ADVANCING THE USE OF BEST PRACTICES.—

(A) IN GENERAL.—In carrying out the initiative under this section, the Secretary shall identify and advance best practices to reduce delivery time and project costs, from planning to construction, for transportation projects and programs of projects regardless of mode and project size.
(B) REQUIREMENT.—To advance the use of best practices, the Secretary shall—

(i) engage transportation stakeholders to gather information regarding opportunities for accelerating project delivery and reducing costs;

(ii) establish a clearinghouse for the collection, documentation, and advancement of existing and new innovative approaches and best practices;

(iii) disseminate information through a variety of means to transportation stakeholders on new innovative approaches and best practices; and

(iv) provide technical assistance to assist transportation stakeholders in the use of existing flexibilities to resolve project delays and accelerate project delivery, to the maximum extent practicable.

(4) IMPLEMENTING STATUTORY PROVISIONS FOR ACCELERATING PROJECT DELIVERY.—The Secretary shall ensure that the provisions of this subtitle and the amendments made by this subtitle intended to accelerate project delivery are fully implemented, including by—
(A) compressing the process for drafting environmental impact statements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) establishing mandatory timeframes for permitting and approval decisions of other Federal agencies;

(C) integrating transportation planning and environmental review of transportation projects;

(D) expanding eligibility of early acquisition of property prior to completion of environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(E) allowing the use of the construction manager or general contractor method of contracting in the Federal-aid highway program;

(F) establishing a demonstration program to streamline the relocation process by permitting a lump-sum payment for acquisition and relocation if elected by the displaced occupant; and
(G) establishing a pilot program to provide
direct Federal-aid highway funding to local gov-
ernments.

(5) ADVANCING INNOVATIVE PROJECT DELIV-
ERY.—In order to accelerate project delivery and re-
duce costs for transportation projects across all
modes and regardless of project size, to the max-
imum extent practicable, the Secretary shall use the
authority under section 304 of title 49, United
States Code (as amended by section 133(a)).

SEC. 132. EFFICIENCIES IN CONTRACTING.

(a) AUTHORITY.—Section 112(b) of title 23, United
States Code, is amended by adding at the end the fol-
lowing:

“(4) CONSTRUCTION MANAGER; GENERAL CON-
TRACTOR.—

“(A) 2-PHASES CONTRACT.—

“(i) IN GENERAL.—A contracting
agency may award a 2-phase contract to a
construction manager or general contractor
for pre-construction and construction serv-
ices.

“(ii) PRE-CONSTRUCTION PHASE.—In
the pre-construction phase, the construc-
tion manager shall provide the contracting
agency with advice for scheduling, work sequencing, cost engineering, constructability, cost estimating, and risk identification.

“(iii) Price.—Prior to the start of the second phase, the owner and the construction manager may agree to a price for the construction of the project or a portion of the project.

“(iv) General Contractor.—If an agreement is reached under clause (iii), the construction manager shall be considered the general contractor for the construction of the project at the negotiated schedule and price.

“(B) Selection.—A contract shall be awarded to a construction manager or general contractor using a competitive selection process under which the contract is awarded on the basis of qualifications, experience, best value, or any other combination of factors considered appropriate by the contracting agency.

“(C) Timing.—

“(i) In General.—Prior to the completion of the process required under sec-
tion 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), a contracting agency may—

“(I) issue requests for proposals;

“(II) proceed with the award of the first phase of construction manager or general contractor contract; and

“(III) issue notices to proceed with preliminary design.

“(ii) **COMPLIANCE WITH OTHER LAW.**—If the first phase of a construction manager or general contractor contract focuses primarily on 1 alternative, the Secretary shall require that the contract include appropriate provisions to ensure—

“(I) that the objectives of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) are achieved; and

“(II) compliance with other applicable Federal laws and regulations occurs.

“(iii) **REQUIREMENT.**—A contracting agency shall not proceed with the award of
the second phase, and shall not proceed, or
permit any consultant or contractor to pro-
ceed, with final design or construction
until completion of the process required
under section 102 of the National Environ-
mental Policy Act of 1969 (42 U.S.C.
4332).

“(D) Applicability.—This paragraph
shall not apply to any project funded under
chapter 53 of title 49.”.

(b) Regulations.—The Secretary shall promulgate
such regulations as are necessary to carry out the amend-
ments made by this section.

(e) Effect on Experimental Program.—Nothing
in this section or the amendments made by this section
affects the authority to carry out, or any project carried
out under, any experimental program concerning construc-
tion manager risk that is being carried out by the Sec-
retary as of the date of enactment of this Act.

SEC. 133. APPLICATION OF CATEGORICAL EXCLUSIONS
FOR MULTIMODAL PROJECTS.

(a) In General.—Section 304 of title 49, United
States Code, is amended to read as follows:
§ 304. Application of categorical exclusions for multimodal projects

(a) DEFINITIONS.—In this section:

(1) AGENCY.—The term ‘agency’ has the meaning given the term in section 139 of title 23.

(2) ENVIRONMENTAL IMPACT STATEMENT.—The term ‘environmental impact statement’ has the meaning given the term in section 139 of title 23.

(3) ENVIRONMENTAL REVIEW PROCESS.—The term ‘environmental review process’ has the meaning given the term in section 139 of title 23.

(4) LEAD AGENCY.—The term ‘lead agency’ means the Department of Transportation and, if applicable, any State or local governmental agency that serves as the lead agency for a multimodal project.

(5) MULTIMODAL PROJECT.—The term ‘multimodal project’ has the meaning given the term in section 139 of title 23.

(6) PROJECT.—The term ‘project’ has the meaning given the term in section 139 of title 23.

(7) STATE TRANSPORTATION DEPARTMENT.—The term ‘State transportation department’ has the meaning given the term in section 139 of title 23.

(b) APPLICABILITY.—Any authority provided in this section may be exercised for any multimodal project, class
of projects, or program of projects that is carried out under this title.

“(c) Application of Categorical Exclusions for Multimodal Projects.—

“(1) In general.—Subject to paragraph (2), in considering the environmental impacts of a proposed multimodal project, a lead agency may apply 1 or more categorical exclusions under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to other components of the project carried out by a participating agency or State transportation department if the lead agency determines that—

“(A) based on regulations or procedures of the lead agency for determining categorical exclusions, the components of the project that fall under the modal expertise of the lead agency satisfy the conditions for 1 or more categorical exclusions under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(B) the project does not require the preparation of an environmental impact statement.

“(2) Exclusions.—Paragraph (1) shall only apply if—
“(A) the multimodal project is funded under a grant agreement administered by the lead agency;

“(B) the multimodal project has components that require the expertise of a participating agency to assess the environmental impacts of the components of the project;

“(C) each component of the project has independent utility;

“(D) the participating agency, in consultation with the lead agency, determines that, based on regulations or procedures of the participating agency for determining categorical exclusions, 1 or more categorical exclusions under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applies to the components of the project under the modal expertise of the participating agency; and

“(E) the lead agency determines that—

“(i) the project does not individually or cumulatively have a significant impact on the environment; and

“(ii) extraordinary circumstances do not exist.

“(d) MODAL COOPERATION.—
“(1) IN GENERAL.—At the request of the lead agency, a participating agency shall provide modal expertise to a lead agency on any aspect of the project in which the participating agency has expertise.

“(2) APPLICABILITY.—A determination of a participating agency that 1 or more categorical exclusions under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) applies to an aspect of a multimodal project shall only apply to the larger multimodal project if, based on regulations or procedures of the participating agency for determining categorical exclusions, the participating agency determines that 1 or more categorical exclusions apply to the applicable aspect of a multimodal project.”

(b) CONFORMING AMENDMENT.—The item relating to section 304 in the analysis for chapter 3 of title 49, United States Code, is amended to read as follows:

“Sec. 304. Application of categorical exclusions for multimodal projects”.

SEC. 134. INTEGRATION OF PLANNING AND ENVIRONMENTAL REVIEW.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:
§ 167. Integration of planning and environmental review

“(a) DEFINITIONS.—In this section:

“(1) ENVIRONMENTAL REVIEW PROCESS.—The term ‘environmental review process’ has the meaning given the term in section 139.

“(2) LEAD AGENCY.—The term ‘lead agency’ has the meaning given the term in section 139.

“(3) PLANNING PRODUCT.—The term ‘planning product’ means any decision, analysis, study, or other documented result of an evaluation or decisionmaking process that is carried out during transportation planning.

“(4) PROJECT.—The term ‘project’ has the meaning given the term in section 139.

“(5) PROJECT SPONSOR.—The term ‘project sponsor’ has the meaning given the term in section 139.

“(b) PURPOSE AND INTENT.—The purpose of this section is to establish the authority, and provide procedures, for achieving integrated planning and environmental review processes—

“(1) to enable statewide and metropolitan planning processes to more effectively serve as the foundation for highway and transit project decisions;

“(2) to foster better decisionmaking;
“(3) to reduce duplicative work;

“(4) to avoid delays in carrying out transportation improvements; and

“(5) to improve transportation and maintain environmental protections for communities and the United States.

“(c) Adoption of Planning Products for Use in the Environmental Review Process.—

“(1) In general.—Subject to paragraph (3) and notwithstanding any other provision of law, the Secretary of Transportation, in consultation with 1 or more lead agencies or project sponsors, may adopt and use any planning product, in whole or in part, in the environmental review process of a transportation project or program.

“(2) Applicability.—

“(A) In general.—Planning decisions that may be adopted pursuant to this section include—

“(i) a purpose and goal for the proposed action, including whether tolling, private financial assistance, or other special financial measures are necessary to implement the proposed action;
“(ii) the location of the travel corridor;

“(iii) the modal choice, including whether to implement corridor or subarea study recommendations to advance different modal solutions as separate projects with independent utility;

“(iv) the elimination of unreasonable alternatives and the selection of a range of reasonable alternatives for detailed study during the environmental review process;

“(v) a basic description of the environmental setting;

“(vi) the methodology to be used in the analysis; and

“(vii) the identification of programmatic level mitigation for potential impacts that the Secretary of Transportation, in conjunction with other applicable agencies, determines are most effectively addressed at a regional or national program level, including—

“(I) system-level measures to avoid, minimize, or mitigate impacts
of proposed transportation investments on environmental resources;

“(II) regional ecosystem needs and opportunities; and

“(III) potential mitigation activities, locations, and investments.

“(B) PLANNING ANALYSES.—Examples of planning analyses that may be adopted under this section include studies of past, current, or predicted future—

“(i) travel demands;

“(ii) regional development and growth levels;

“(iii) local land use, growth management, and development patterns;

“(iv) population and employment levels;

“(v) natural and human environmental conditions;

“(vi) environmental resources and environmentally sensitive areas;

“(vii) potential environmental effects, including the identification of resources of concern and potential cumulative effects on
those resources, as a result of a statewide or regional cumulative effects assessment;

“(viii) mitigation needs for a proposed action or for programmatic level mitigation for potential effects that the Secretary of Transportation determines are most effectively addressed at a regional or national program level; and

“(ix) safety measures.

“(3) CONDITIONS.—The adoption and use of a planning product under this section shall be subject to a determination by the Secretary of Transportation, in consultation with appropriate lead agencies and project sponsors, that—

“(A) the planning product has been developed through a planning process carried out pursuant to applicable Federal law (including regulations);

“(B) the planning process includes broad multidisciplinary consideration of systems-level or corridor-wide transportation needs and an analysis of potential effects;

“(C) during the planning process—

“(i) notice of the proposed planning product and planning process has been
provided through publication or other means to—

“(I) each Federal, State, local, and tribal government that may have an interest in the proposed project or program; and

“(II) members of the general public; and

“(ii) the entities described in clause (i)(I) have been provided an opportunity to participate in the planning process;

“(D) prior to determining the scope of the environmental review process, each lead agency has made documentation relating to the planning product available to the entities described in subparagraph (C)(i)(I);

“(E) no significant new information or new circumstance exists that has a reasonable likelihood of affecting the continued validity of the planning product;

“(F) the planning product—

“(i) has a rational basis;

“(ii) is based on reliable and reasonably current data; and
“(iii) in the case of an analysis, is based on reasonable and scientifically acceptable methodologies;

“(G) the planning product is documented in sufficient detail to support the decision or results of the analysis and to meet any requirements for use of the information in the environmental review process; and

“(H) the planning product is appropriate for adoption and use in the environmental review process for the project or program.

“(4) EFFECT OF ADOPTION.—

“(A) IN GENERAL.—Notwithstanding any other law, any planning product adopted by the Secretary of Transportation under this section shall not be reconsidered or subject to additional interagency consultation while the environmental review process for a project or program is being carried out unless the Secretary of Transportation, in consultation with applicable lead agencies and project sponsors, determines that there is significant new information or new circumstances that affect the continued validity or appropriateness of the adopted planning product.
“(B) Transferability.—A planning product adopted by the Secretary of Transportation under this section may be relied on and used by other Federal agencies in carrying out an environmental review of a project or program.

“(d) Administration.—

“(1) In general.—The authority granted under this section shall be broadly construed and may be applied to any project, class of projects, or program carried out under this title.

“(2) Applicability.—

“(A) In general.—The environmental review process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to any transportation planning process carried out under this title.

“(B) Scope.—If an environmental review process is commenced as a part of, or concurrently with, a transportation planning activity under this title, the project shall remain exempt from the applicable provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).”
(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"Sec. 167. Integration of planning and environmental review".

SEC. 135. NATIONAL ENVIRONMENTAL POLICY ACT PROC-ESS REFORMS.

Section 139 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (5), by striking "or chapter 53 of title 49";

(B) in paragraph (6), by striking ", public transportation capital project,"

(2) in subsection (c)(3), by striking "or chapter 53 of title 49";

(3) by redesignating subsections (f), (g), (h), (i), (j), (k), and (l) as subsections (g), (h), (i), (k), (l), (m), and (n), respectively;

(4) by inserting after subsection (e) the following:

"(f) SCOPING.—

"(1) IN GENERAL.—The lead agency shall limit the scope of documents prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to the relevant and important environmental
issues directly relating to decisions with respect to
the proposed action.

“(2) DECISION.—The Secretary shall determine
the relevant and important issues described in para-
graph (1) to be analyzed after considering informa-
tion in the scoping process.

“(3) RECONSIDERATION.—The determination of
the Secretary regarding the relevant and important
issues to be analyzed is subject to reconsideration
only if significant new circumstances or information
arise that bear on the proposal or the impacts of the
proposal.”;

(5) in subsection (g)(4) (as redesignated by
paragraph (3))—

(A) in subparagraph (B)—

(i) by striking “Following participa-
tion” and inserting the following:

“(i) IN GENERAL.—Following partici-
pation”; and

(ii) by adding at the end the fol-
lowing:

“(ii) BASIS FOR SELECTION.—The se-
lection of reasonable alternatives shall be
based upon—
“(I) the likely ability of the alternatives to satisfy the transportation elements of the purpose and need for the project;

“(II) the likely requirements of other Federal environmental statutes;

“(III) costs;

“(IV) the needs of affected local governments;

“(V) whether the alternative is substantially similar to other alternatives selected for detailed study; and

“(VI) other circumstances, discussed in the scoping process, that the lead agency determines to be relevant to the particular project, on the condition that, after the Secretary makes the determination under subsection (f) relating to scoping, additional reasonable alternatives may be selected for analysis only if the lead agency determines that significant new information justifies expansion of the range of
reasonable alternatives selected for analysis.”;

(B) in subparagraph (C)—

(i) by striking “The lead agency” and inserting the following:

“(i) IN GENERAL.—The lead agency”;

(ii) in clause (i) (as designated by clause (i)), by striking “at appropriate times during the study process” and inserting “during scoping or at such other time during project development as the lead agency determines to be appropriate,”; and

(iii) by adding at the end the following:

“(ii) RECONSIDERATION.—A decision described in clause (i) may be reconsidered at any time the lead agency determines the reconsideration to be appropriate.”; and

(C) in subparagraph (D), by striking “At the discretion of the lead agency” and inserting the following:

“(i) IN GENERAL.—A preferred alternative may be identified at any time after initiation of the scoping process.
“(ii) Identification of Preferred Alternative.—The draft environmental impact statement shall identify the preferred alternative, if any, for a project.

“(iii) Further Development.—At the discretion of the lead agency”;

(6) in subsection (h) (as so redesignated)—

(A) by striking paragraph (3); and

(B) by redesignating paragraph (4) as paragraph (3);

(7) in subsection (i) (as so redesignated), by striking paragraph (4) and inserting the following:

“(4) Issue Resolution.—

“(A) Meeting of Participating Agencies.—

“(i) In General.—On the request of a Federal agency of jurisdiction, project sponsor, or the Governor of a State in which the project is located, the lead agency shall promptly convene a meeting with the relevant participating agencies, the project sponsor, and the Governor (if the meeting is requested by the Governor) to resolve issues that could delay completion of the environmental review process or
could result in denial of any approvals re-
required for the project under applicable
laws, including issue resolution relating to
applications for project permits, licenses,
or other approvals referred to in paragraph
(5).

“(ii) MEETINGS CONVENED BY LEAD
AGENCY.—The lead agency may convene
an issue resolution meeting under this sub-
section with the participating agencies and
project sponsor at any time the lead agen-
cy determines a meeting to be appropriate.

“(iii) TIMING.—A meeting convened
under this subsection at the request of a
Federal agency of jurisdiction, the project
sponsor, or the Governor shall be held not
later than 14 days after the date of receipt
of the request unless the lead agency deter-
mines there is just cause to extend the
time period for a meeting.

“(B) ELEVATION IF RESOLUTION IS NOT
ACHIEVED.—

“(i) IN GENERAL.—If a resolution is
not achieved by the date that is 30 days
after the later of the date of a meeting de-
scribed in subparagraph (A) and the date of a determination by the lead agency that all information necessary to resolve the issue has been obtained, the Secretary—

“(I) may convene an issue resolution meeting of the lead agency, the heads of the relevant participating agencies, the project sponsor, and the Governor (if the initial issue resolution meeting is requested by the Governor) to resolve the issues; and

“(II) in the case of a Federal agency of jurisdiction that has not made a decision within the time period described in subsection (h)(3)(A), shall convene an issue resolution meeting to resolve the issues.

“(ii) TIMING.—A meeting convened by the Secretary under this subparagraph shall be held not later than 30 days after the end of the 30-day period described in clause (i) for resolution of issues following the date of a meeting described in subparagraph (A).
“(iii) Notification.—The Secretary shall notify the Committee on Environment and Public Works of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Council on Environmental Quality that a meeting is to be convened under this paragraph.

“(5) Deadlines for decisions under other laws.—Notwithstanding any other provision of law (including a regulation)—

“(A) subject to subparagraph (B), a decision relating to a transportation project under any Federal law (including a regulation and any issuance or denial of a permit, license, or other approval) shall be made by the Federal agency of jurisdiction by the later of—

“(i) the date that is 180 days after the date on which the Federal lead agency issues a decision on the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and (if applicable) section 138 of this title; and
“(ii) the date that is 180 days after
the date on which an application is sub-
mitted for the permit, license, or approval;
“(B) the Secretary may extend the time
for a decision under subparagraph (A) for just
cause;
“(C) the application for a project permit,
license, or other approval shall be approved by
operation of law without further action by the
Federal agency of jurisdiction if—
“(i) within the time for a decision
under subparagraph (A), the Federal agen-
cy of jurisdiction has not issued a final de-
cision or obtained concurrence to delay de-
cision by the project sponsor; or
“(ii) the Federal agency has not
issued a final decision within 30 days, or
such longer time as the Secretary may es-
blish for just cause, after the conclusion
of a meeting convened by the Secretary
pursuant to paragraph (4)(B);
“(D) a permit, license, or other approval
approved pursuant to this subsection shall not
be subject to judicial review; and
“(E) the Secretary may issue a written finding verifying the approval of an application, as submitted to the Federal agency of jurisdiction, in accordance with this subsection;”;

(8) by inserting after subsection (i) (as so redesignated) the following:

“(j) Consolidated Statements and Decisions.—

“(1) In general.—In the event that a preferred alternative is identified in the draft environmental impact statement, and notwithstanding any other provision of law or regulation, the Secretary must, to the maximum extent practicable combine a final environmental impact statement and a record of decision into a single document following any public hearings required by section 128 of this title as long as, at least 30 days prior to the issuance of the combined final environmental impact statement and record of decision, the lead agency gives notice to the agencies participating in the environmental review process and the public of the proposed decision of the lead agency.

“(2) Notice content.—The notice described in paragraph (1) shall include—
“(A) a brief summary description of the proposed decision, including the anticipated selected alternative and any mitigation commitments that will be required under the decision; and

“(B) a deadline of not less than 30 days after the date on which the participating agency receives the notice for any predecisional referral under part 1504 of title 40, Code of Federal Regulations (or successor regulations).

“(3) MANNER OF NOTICE.—

“(A) IN GENERAL.—The lead agency may give the required notice to agencies by mail, e-mail, fax, or other commercially acceptable means that permit confirmation of delivery.

“(B) PUBLIC NOTICE.—The lead agency may give the required public notice by means of publication of the notice in a newspaper of statewide circulation, in the Federal Register, or by posting the notice on the website of the project.”;

(9) in subsection (l)(1) (as so redesignated)—

(A) by striking “or chapter 53 of title 49”;

and

(B) by striking “or such chapter 53”;
(10) in subsection (m) (as so redesignated), by striking paragraph (2) and inserting the following:

“(2) RELATIONSHIP TO OTHER STATUTES.—If any provision of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), any regulation promulgated under that Act, or any other Federal environmental statute, conflicts with this section, the procedures in this section shall take precedence.”; and

(11) in subsection (n)(1) (as so redesignated), by striking “or public transportation capital”.

SEC. 136. CLARIFIED ELIGIBILITY FOR EARLY ACQUISITION ACTIVITIES PRIOR TO COMPLETION OF ENVIRONMENTAL REVIEW PROCESS.

(a) ACQUISITION OF REAL PROPERTY.—Notwithstanding any other provision of law, the acquisition of real property in anticipation of a federally assisted or federally approved surface transportation project that may use the real property is not prohibited prior to the date on which the environmental review process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for the surface transportation project is completed, subject to the conditions that the acquisition does not have an adverse environmental effect or limit the choice of reasonable alternatives for the proposed project.
(b) EARLY ACQUISITION OF REAL PROPERTY INTERESTS FOR HIGHWAYS.—Section 108 of title 23, United States Code, is amended—

(1) in the section heading, by inserting “INTERESTS” after “REAL PROPERTY”;

(2) in subsection (a), by inserting “interests” after “real property” each place it appears;

(3) in subsection (b), by striking “rights-of-way” and inserting “real property interests”;

(4) in subsection (c)—

(A) in the subsection heading, by striking “RIGHTS-OF-WAY” and inserting “REAL PROPERTY INTERESTS”;

(B) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by inserting “at any time” after “may be used”; and

(ii) in subparagraph (A)—

(I) by striking “acquisition of rights-of-way” and inserting “acquisition of real property interests”; and

(II) by striking “, if the rights-of-way are subsequently incorporated into a project eligible for surface transportation program funds”; and
(C) by striking paragraph (2) and inserting the following:

“(2) TERMS AND CONDITIONS.—

“(A) IN GENERAL.—Subject to the other provisions in this section, a public authority may acquire real property that may be used for a project prior to the date on which the environmental review process under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for the project is completed.

“(B) CONDITIONS.—An acquisition described in subparagraph (A) may be authorized by project agreement and shall be eligible for Federal-aid reimbursement as a project expense if the Secretary finds that the acquisition—

“(i) does not cause any significant adverse environmental impact;

“(ii) does not limit the choice of reasonable alternatives for the project or otherwise influence the decision of the Secretary on any approval required for the project;

“(iii) is consistent with the State transportation planning process under section 135;
“(iv) complies with other applicable Federal laws (including regulations);

“(v) is carried out through negotiation, without the threat of condemnation; and

“(vi) together with any relocation assistance provided, complies with—

“(I) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.); and

“(II) title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

“(C) DEVELOPMENT.—Real property acquired under this subsection may not be developed in anticipation of the project until the date on which all required environmental reviews for the project have been completed.

“(D) REIMBURSEMENT.—If Federal-aid reimbursement is made for early acquired real property under this subsection and the property is not incorporated into a project eligible for surface transportation funds in the time period described in subsection (a)(2), the Secretary
shall offset the amount so reimbursed against funds apportioned to the State.

“(E) OTHER CONDITIONS.—The Secretary may establish such other conditions or restrictions on the acquisition of real property under this section as the Secretary determines to be necessary.”.

SEC. 137. SURFACE TRANSPORTATION PROJECT DELIVERY PROGRAM.

(a) IN GENERAL.—Section 327 of title 23, United States Code, is amended—

(1) in the section heading, by striking “PILOT”; and

(2) by striking “pilot” each place it appears.

(b) ESTABLISHMENT.—Section 327(a)(2) of title 23, United States Code, is amended—

(1) in subparagraph (B), by striking clause (ii) and inserting the following:

“(ii) the Secretary may not assign any responsibility imposed on the Secretary by section 134 or 135;”; and

(2) by adding at the end the following:

“(F) SOVEREIGN IMMUNITY.—By executing an agreement with the Secretary and as-
assuming the responsibilities of the Secretary
under this section, a State—

“(i) waives the sovereign immunity of
the State under the Eleventh Amendment
of the Constitution of the United States
from any civil action brought in a Federal
court; and

“(ii) expressly consents to accept the
jurisdiction of the Federal courts with re-
spect to any action relating to the compli-
ance, discharge, and enforcement of any
responsibility of the Secretary that the
State assumes.”.

(e) STATE PARTICIPATION.—Section 327(b) of title
23, United States Code, is amended—

(1) by striking paragraph (1);

(2) by redesigning paragraphs (2) through
(5) as paragraphs (1) through (4), respectively; and

(3) in paragraph (3)(A) (as redesignated by
paragraph (2)), by striking “paragraph (2)” and in-
serting “paragraph (1)”.

(d) WRITTEN AGREEMENT.—Section 327(c) of title
23, United States Code, is amended—

(1) in paragraph (3), by striking the period at
the end and inserting a semicolon; and
(2) by adding at the end the following:

“(4) require the State to provide to the Secretary any information the Secretary determines to be necessary to ensure that the State is adequately carrying out the responsibilities assigned to the State, including periodic written reports; and

“(5) require the Secretary—

“(A) after a period of 5 years, to evaluate the ability of the State to carry out the responsibilities assumed under this section;

“(B) if the Secretary determines that the State is not ready to effectively carry out the responsibilities the State has assumed, to re-evaluate the readiness of the State by not later than 3 years after the initial evaluation under subparagraph (A) and every 3 years thereafter, until the Secretary determines that the State is ready to assume those responsibilities on a permanent basis; and

“(C) after the Secretary has determined under subparagraph (A) or (B) that the State is ready to permanently assume the responsibilities under this section, to notify the State—

“(i) of that determination; and
“(ii) that no further evaluations shall be required.”.

(c) AUDITS.—Section 327 of title 23, United States Code is amended—

(1) by striking subsection (g); and

(2) by redesignating subsections (h) and (i) as (g) and (h), respectively.

(f) TERMINATION.—Section 327(h) of title 23, United States Code (as redesignated by subsection (e)(2)), is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1); and

(3) by inserting after paragraph (1) (as redesignated by paragraph (2)) the following:

“(2) TERMINATION BY STATE.—Subject to such terms and conditions as the Secretary may specify, the State may terminate the participation of the State in the program at any time by providing notice of the termination to the Secretary not later than 90 days before the State intends to terminate that participation.”.

(g) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by
striking the item relating to section 327 and inserting the following:

"327. Surface transportation project delivery program".

SEC. 138. STATE ASSUMPTION OF RESPONSIBILITIES FOR CATEGORICAL EXCLUSIONS.

Section 326(a) of title 23, United States Code, is amended by adding at the end the following:

"(4) STATE ASSUMPTION OF RESPONSIBILITIES FOR CATEGORICAL EXCLUSIONS.—

"(A) SOVEREIGN IMMUNITY.—By executing a memorandum of understanding with the Secretary under subsection (c) and assuming the responsibilities of the Secretary under this section, a State—

"(i) waives the sovereign immunity of the State under the Eleventh Amendment of the Constitution of the United States from any civil action brought in a Federal court; and

"(ii) expressly consents to accept the jurisdiction of the Federal courts with respect to any action relating to the compliance, discharge, and enforcement of any responsibility of the Secretary that the State assumes."
“(B) TERMINATION BY STATE.—Subject to such terms and conditions as the Secretary may specify, the State may terminate the participation of the State in the program at any time by providing notice of the termination to the Secretary not later than 90 days before the State intends to terminate that participation.”.

SEC. 139. EMERGENCY WAIVER.

Any road, highway, or bridge that is in operation for fewer than 30 years or that is under construction, and that is damaged by major disaster or emergency declared by the Governor of the State and concurred in by the Secretary, or declared by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121)—

(1) may be reconstructed in the same location with the same capacity, dimensions, and design as before the disaster or emergency; and

(2) shall be exempt from any environmental reviews, approvals, licensing, and permit requirements under—

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

(B) the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.);
(C) the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

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

(E) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), except when the re-
construction occurs in designated critical habi-
tat for threatened and endangered species;

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

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

(H) Executive Order 11990 (42 U.S.C. 4321 note; relating to the protection of wet-
land); and

(I) any Federal law (including regulations) requiring no net loss of wetland.

SEC. 140. CEMENT SECTOR REGULATORY RELIEF.

(a) Establishment of Standards.—In lieu of the rules specified in subsection (b), and notwithstanding the date by which those rules would otherwise be required to be promulgated, the Administrator of the Environmental Protection Agency (referred to in this section as the “Ad-
ministrator”) shall—
(1) propose regulations for the Portland cement manufacturing industry and Portland cement plants that are subject to any of the rules specified in subsection (b) that—

(A) establish maximum achievable control technology standards, performance standards, and other requirements under sections 112 and 129, as applicable, of the Clean Air Act (42 U.S.C. 7412, 7429); and

(B) identify nonhazardous secondary materials that, when used as fuels in combustion units of that industry and those plants, qualify as solid waste under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) for purposes of determining the extent to which the combustion units are required to meet the emission standards under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429); and

(2) promulgate final versions of those regulations by not later than—

(A) the date that is 15 months after the date of enactment of this Act; or

(B) such later date as may be determined by the Administrator.

(b) STAY OF EARLIER RULES.—
(1) PORTLAND-SPECIFIC RULES.—The final rule entitled “National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry and Standards of Performance for Portland Cement Plants” (75 Fed. Reg. 54970 (September 9, 2010)) shall be—

(A) of no force or effect;

(B) treated as though the rule had never taken effect; and

(C) replaced in accordance with subsection (a).

(2) OTHER RULES.—

(A) IN GENERAL.—The final rules described in subparagraph (B), to the extent that those rules apply to the Portland cement manufacturing industry and Portland cement plants shall be—

(i) of no force or effect;

(ii) treated as though the rules had never taken effect; and

(iii) replaced in accordance with subsection (a).

(B) DESCRIPTION OF RULES.—The final rules described in this subparagraph are—
(i) the final rule entitled “Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units” (76 Fed. Reg. 15704 (March 21, 2011)); and

(ii) the final rule entitled “Identification of Non-Hazardous Secondary Materials That Are Solid Waste” (76 Fed. Reg. 15456 (March 21, 2011)).

(c) Establishment of Compliance Dates.—For each regulation promulgated pursuant to subsection (a), the Administrator—

(1) shall establish a date for compliance with standards and requirements under the regulation that is, notwithstanding any other provision of law, not earlier than 5 years after the effective date of the regulation; and

(2) in proposing a date for that compliance, shall take into consideration—

(A) the costs of achieving emission reductions;

(B) any nonair quality health and environmental impacts and energy requirements of the standards and requirements;
(C) the feasibility of implementing the standards and requirements, including the time necessary—

(i) to obtain necessary permit approvals; and

(ii) to procure, install, and test control equipment;

(D) the availability of equipment, suppliers, and labor, given the requirements of the regulation and other proposed or finalized regulations of the Administrator; and

(E) potential net employment impacts.

(d) NEW SOURCES.—The date on which the Administrator proposes a regulation pursuant to subsection (a)(1) establishing an emission standard under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429) shall be treated as the date on which the Administrator first proposes such a regulation for purposes of applying—

(1) the definition of the term “new source” under section 112(a)(4) of that Act (42 U.S.C. 7412(a)(4)); or

(2) the definition of the term “new solid waste incineration unit” under section 129(g)(2) of that Act (42 U.S.C. 7429(g)(2)).
(e) Rule of Construction.—Nothing in this section restricts or otherwise affects paragraphs (3)(B) and (4) of section 112(i) of the Clean Air Act (42 U.S.C. 7412(i)).

(f) Energy Recovery and Conservation.—Notwithstanding any other provision of law, and to ensure the recovery and conservation of energy consistent with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), in promulgating regulations under subsection (a) addressing the subject matter of the rules specified in subsection (b)(2), the Administrator shall—

(1) adopt the definitions of the terms "commercial and industrial solid waste incineration unit", "commercial and industrial waste", and "contained gaseous material" in the rule entitled "Standards for Performance of New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units" (65 Fed. Reg. 75338 (December 1, 2000)); and

(2) identify nonhazardous secondary material to be solid waste (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)) only if—

(A) the material meets that definition of commercial and industrial waste; or
(B) if the material is a gas, the material meets that definition of contained gaseous material.

(g) Establishment of Standards Achievable in Practice.—In promulgating regulations under subsection (a), the Administrator shall ensure, to the maximum extent practicable, that emission standards for existing and new sources established under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429), as applicable, can be met under actual operating conditions consistently and concurrently with emission standards for all other air pollutants covered by regulations applicable to the source category, taking into account—

(1) variability in actual source performance;
(2) source design;
(3) fuels;
(4) inputs;
(5) controls;
(6) ability to measure the pollutant emissions;
and
(7) operating conditions.

(h) Regulatory Alternatives.—For each regulation promulgated under subsection (a), from among the range of regulatory alternatives authorized under the Clean Air Act (42 U.S.C. 7401 et seq.), including work
practice standards under section 112(h) of that Act (42 U.S.C. 7412(h)), the Administrator shall impose the least burdensome, consistent with the purposes of that Act and Executive Order 13563 (76 Fed. Reg. 3821 (January 21, 2011)).

TITLE II—PUBLIC TRANSPORTATION

SEC. 201. PUBLIC TRANSPORTATION.

(a) Extension for Public Transportation.—

Except as otherwise provided in this section, requirements, authorities, conditions, eligibilities, limitations, and other provisions authorized under title III of the SAFETEA-LU (Public Law 109–59; 119 Stat. 2022), title III of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2087), title III of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 338), and chapter 53 of title 49, United States Code, which would otherwise expire on or cease to apply after March 31, 2012, are incorporated by reference and shall continue in effect until September 30, 2013.

(b) Authorization of Appropriations.—

(1) Mass Transit Account.—There shall be available from the Mass Transit Account of the Highway Trust Fund for each of fiscal years 2012
and 2013, an amount equal to the total amount au-

thorized to be appropriated out of the Mass Transi
t Account of the Highway Trust Fund for programs,
projects, and activities for fiscal year 2011 under
the SAFETEA–LU (Public Law 109–59) and under
chapter 53 of title 49, United States Code.

(2) GENERAL FUND.—There is authorized to be
appropriated from the General Fund of the Treasury
for each of fiscal years 2012 and 2013, an amount
equal to the total amount authorized to be appro-
priated from the General Fund of the Treasury for
programs, projects, and activities for fiscal year
2011 under the SAFETEA–LU (Public Law 109–
59) and under chapter 53 of title 49, United States
Code.

(e) CONTRACT AUTHORITY.—Funds made available
under this section from the Mass Transit Account of the
Highway Trust Fund shall be available for obligation in
the same manner as provided for under section 5338(f)(1)
of title 49, United States Code.

(d) USE OF FUNDS.—Funds authorized to be appro-
priated or made available for obligation and expended
under this section shall be distributed, administered, lim-
ited, and made available for obligation in the same manner
and at the same rate as funds authorized to be appro-
appropriated or made available for fiscal year 2011 to carry out
programs, projects, activities, eligibilities, and requirements under the SAFETEA–LU (Public Law 109–59),
2087), title III of the Transportation Equity Act for the
21st Century (Public Law 105–178; 112 Stat. 338), and
chapter 53 of title 49, United States Code, including section 5338(f)(1) of such title 49.

(e) DISTRIBUTION OF FUNDS UNDER TITLE III OF
SAFETEA-LU.—Funds authorized to be appropriated or
made available for programs continued under this section
shall be distributed to those programs in the same proportion as funds were allocated for those programs for fiscal
year 2011, except that any designations for specific activities in sections 3044 and 3046 of the SAFETEA–LU
shall not be required to be continued.

(f) DISADVANTAGED BUSINESS ENTERPRISES.—Sec-
tion 1101(b) of the SAFETEA–LU (23 U.S.C. 101 note)
shall apply with respect to any program under title III
of the SAFETEA–LU (Public Law 109–59) or chapter
53 of title 49, United States Code, that receives funds au-
thorized to be appropriated or made available for obliga-
tion and expended under this section.
(g) Obligation Ceiling.—Section 3040 of the SAFETEA–LU (Public Law 109–59; 119 Stat. 1639) is amended by striking paragraph (8) and inserting the following

“(8) for each of fiscal years 2012 and 2013, an amount equal to $10,507,752,000, of which not more than $8,360,565,000 shall be from the Mass Transit Account.”.

TITLE III—EXTENSION OF SURFACE TRANSPORTATION PROGRAMS

SEC. 301. EXTENSION OF NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION HIGHWAY SAFETY PROGRAMS.

(a) Chapter 4 Highway Safety Programs.—Section 2001(a)(1) of SAFETEA–LU (119 Stat. 1519) is amended by striking “and $117,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.” and inserting “$235,000,000 for fiscal year 2012, and $235,000,000 for fiscal year 2013.”.

(b) Highway Safety Research and Development.—Section 2001(a)(2) of SAFETEA–LU (119 Stat. 1519) is amended by striking “and $54,122,000 for the period beginning on October 1, 2011, and ending on
March 31, 2012.” and inserting “$108,244,000 for fiscal
year 2012, and $108,244,000 for fiscal year 2013.”.

(c) OCCUPANT PROTECTION INCENTIVE GRANTS.—

(1) EXTENSION OF PROGRAM.—Section 405(a)
of title 23, United States Code, is amended—

(A) in paragraph (3) by striking “9” and
inserting “10”; and

(B) in paragraph (4)(C) by striking “fifth through
ninth” and inserting “fifth through tenth”.

(2) AUTHORIZATION OF APPROPRIATIONS.—

1519) is amended by striking “and $12,500,000 for
the period beginning on October 1, 2011, and ending
on March 31, 2012.” and inserting “$25,000,000
for fiscal year 2012, and $25,000,000 for fiscal year
2013.”.

(d) SAFETY BELT PERFORMANCE GRANTS.—Section

2001(a)(4) of SAFETEA–LU (119 Stat. 1519) is amend-
ed by striking “and $24,250,000 for the period beginning
on October 1, 2011, and ending on March 31, 2012.” and
inserting “$48,500,000 for fiscal year 2012, and
$48,500,000 for fiscal year 2013.”.

(e) STATE TRAFFIC SAFETY INFORMATION SYSTEM
IMPROVEMENTS.—Section 2001(a)(5) of SAFETEA–LU
(119 Stat. 1519) is amended by striking “and
$17,250,000 for the period beginning on October 1, 2011,
and ending on March 31, 2012.” and inserting
“$34,500,000 for fiscal year 2012, and $34,500,000 for
fiscal year 2013.”.

(f) Alcohol-Impaired Driving Counter-
measures Incentive Grant Program.—

(1) Extension of program.—Section 410 of
title 23, United States Code, is amended—

(A) in subsection (a)(3)(C), by striking
“eleventh” and inserting “12th”; and

(B) in subsection (b)(2)(C), by striking
“2012” and inserting “2013”.

(2) Authorization of appropriations.—
Section 2001(a)(6) of SAFETEA–LU (119 Stat.
1519) is amended by striking “and $69,500,000 for
the period beginning on October 1, 2011, and ending
on March 31, 2012.” and inserting “$139,000,000
for fiscal year 2012, and $139,000,000 for fiscal
year 2013.”.

(g) National Driver Register.—Section
2001(a)(7) of SAFETEA–LU (119 Stat. 1520) is amend-
ed by striking “and $2,058,000 for the period beginning
on October 1, 2011, and ending on March 31, 2012.” and
inserting “$4,116,000 for fiscal year 2012, and $4,116,000 for fiscal year 2013.”.

(h) High Visibility Enforcement Program.—

(1) Extension of Program.—Section 2009(a)
of SAFETEA–LU (23 U.S.C. 402 note) is amended
by striking “2012” and inserting “2013”.

(2) Authorization of Appropriations.—
Section 2001(a)(8) of SAFETEA–LU (119 Stat.
1520) is amended by striking “and $14,500,000 for
the period beginning on October 1, 2011, and ending
on March 31, 2012.” and inserting “$29,000,000
for fiscal year 2012, and $29,000,000 for fiscal year
2013.”.

(i) Motorcyclist Safety.—

(1) Extension of Program.—Section
2010(d)(1)(B) of SAFETEA–LU (23 U.S.C. 402
note) is amended by striking “sixth, and seventh”
and inserting “sixth, seventh, and eighth”.

(2) Authorization of Appropriations.—
Section 2001(a)(9) of SAFETEA–LU (119 Stat.
1520) is amended by striking “and $3,500,000 for
the period beginning on October 1, 2011, and ending
on March 31, 2012.” and inserting “$7,000,000 for
fiscal year 2012, and $7,000,000 for fiscal year
2013.”.
(j) Child Safety and Child Booster Seat Safety Incentive Grants.—

(1) Extension of Program.—Section 2011(c)(2) of SAFETEA–LU (23 U.S.C. 405 note) is amended by striking “sixth, and seventh fiscal years” and inserting “sixth, seventh, and eighth fiscal years”.

(2) Authorization of Appropriations.—Section 2001(a)(10) of SAFETEA–LU (119 Stat. 1520) is amended by striking “and $3,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.” and inserting “$7,000,000 for fiscal year 2012, and $7,000,000 for fiscal year 2013.”.

(k) Administrative Expenses.—Section 2001(a)(11) of SAFETEA–LU (119 Stat. 1520) is amended by striking “and $12,664,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.” and inserting “$25,328,000 for fiscal year 2012, and $25,328,000 for fiscal year 2013.”.

(l) Applicability of Title 23.—Section 2001(c) of SAFETEA–LU (119 Stat. 1520) is amended by striking “2012” and inserting “2013”.
(m) **Drug-Impaired Driving Enforcement.**—

Section 2013(f) of SAFETEA–LU (23 U.S.C. 403 note) is amended by striking “2012” and inserting “2013”.

(n) **Older Driver Safety; Law Enforcement Training.**—Section 2017 of SAFETEA–LU is amended—

(1) in subsection (a)(1) (119 Stat. 1541), by striking “2012” and inserting “2013”; and

(2) in subsection (b)(2) (23 U.S.C. 402 note), by striking “2012” and inserting “2013”.

### SEC. 302. Extension of Federal Motor Carrier Safety Administration Programs.

(a) **Motor Carrier Safety Grants.**—Section 31104(a) of title 49, United States Code, is amended—

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

(2) by striking paragraph (8) and inserting the following:

“(8) $212,000,000 for fiscal year 2012; and

“(9) $212,000,000 for fiscal year 2013.”.

(b) **Administrative Expenses.**—Section 31104(i)(1) of title 49, United States Code, is amended—

(1) in subparagraph (G), by striking “and” at the end; and
(2) by striking subparagraph (H) and inserting the following:

“(H) $244,144,000 for fiscal year 2012; and

“(I) $244,144,000 for fiscal year 2013.”.

(c) Grant Programs.—Section 4101(c) of SAFETEA–LU (119 Stat. 1715) is amended—

(1) in paragraph (1), by striking “and $15,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012.” and inserting “and $30,000,000 for each of fiscal years 2012 and 2013.”;

(2) in paragraph (2), by striking “2011 and $16,000,000 for the period beginning on October 1, 2011, and ending on March 31, 2012” and inserting “2013”;

(3) in paragraph (3), by striking “2011 and $2,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012” and inserting “2013”;

(4) in paragraph (4), by striking “2011 and $12,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012” and inserting “2013”; and
(5) in paragraph (5), by striking “2011 and $1,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012” and inserting “2013”.

(d) **HIGH-PRIORITY ACTIVITIES.**—Section 31104(k)(2) of title 49, United States Code, is amended by striking “2011 and $7,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2013”.

(e) **NEW ENTRANT AUDITS.**—Section 31144(g)(5)(B) of title 49, United States Code, is amended by striking “and up to $14,500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,”.

(f) **OUTREACH AND EDUCATION.**—Section 4127(e) of SAFETEA–LU (119 Stat. 1741) is amended by striking “fiscal years 2006” and all that follows through “March 31, 2012,” and inserting “fiscal years 2006 through 2013”.

(g) **GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS.**—Section 4134(c) of SAFETEA–LU (119 Stat. 1744) is amended by striking “2011 and $500,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “2013”.

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(h) **Motor Carrier Safety Advisory Committee.**—Section 4144(d) of SAFETEA–LU (119 Stat. 1748) is amended by striking “March 31, 2012” and inserting “September 30, 2013”.


**SEC. 303. ADDITIONAL PROGRAMS.**

(a) **Hazardous Materials Research Projects.**—Section 7131(c) of SAFETEA–LU (119 Stat. 1910) is amended by striking “2011 and $580,000 for the period beginning on October 1, 2011, and ending on March 31, 2012,” and inserting “and $1,160,000 for each of fiscal years 2012 and 2013”.

(b) **Dingell-Johnson Sport Fish Restoration Act.**—Section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c) is amended—

(1) in subsection (a), by striking “March 31, 2012” and inserting “September 30, 2013,”; and

(2) in the first sentence of subsection (b)(1)(A) by striking “2011 and for the period beginning on October 1, 2011, and ending on March 31, 2012,”
and inserting “2011, and for each of fiscal years
2012 and 2013,”.

TITLE IV—REGULATIONS FROM
THE EXECUTIVE IN NEED OF
SCRUTINITY

SEC. 401. SHORT TITLE.

This title may be cited as the “Regulations From the
Executive in Need of Scrutiny Act of 2011” or the
“REINS Act”.

SEC. 402. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Section 1 of article I of the United States
Constitution grants all legislative powers to Con-
gress.

(2) Over time, Congress has excessively dele-
gated its constitutional charge while failing to con-
duct appropriate oversight and retain accountability
for the content of the laws it passes.

(3) By requiring a vote in Congress, this title
will result in more carefully drafted and detailed leg-
islation, an improved regulatory process, and a legis-
lative branch that is truly accountable to the people
of the United States for the laws imposed upon
them.
(b) PURPOSE.—The purpose of this title is to increase accountability for and transparency in the Federal regulatory process.

SEC. 403. CONGRESSIONAL REVIEW OF AGENCY RULE-MAKING.

Chapter 8 of title 5, United States Code, is amended to read as follows:

“CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

§ 801. Congressional review

“(a)(1)(A) Before a rule may take effect, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

“(i) a copy of the rule;

“(ii) a concise general statement relating to the rule;

“(iii) a classification of the rule as a major or nonmajor rule, including an explanation of the classification specifically addressing each criteria for a
major rule contained within sections 804(2)(A), 804(2)(B), and 804(2)(C);

(iv) a list of any other related regulatory actions intended to implement the same statutory provision or regulatory objective as well as the individual and aggregate economic effects of those actions; and

(v) the proposed effective date of the rule.

(B) On the date of the submission of the report under subparagraph (A), the Federal agency promulgating the rule shall submit to the Comptroller General and make available to each House of Congress—

(i) a complete copy of the cost-benefit analysis of the rule, if any;

(ii) the agency’s actions pursuant to title 5 of the United States Code, sections 603, 604, 605, 607, and 609;

(iii) the agency’s actions pursuant to title 2 of the United States Code, sections 1532, 1533, 1534, and 1535; and

(iv) any other relevant information or requirements under any other Act and any relevant Executive orders.

(C) Upon receipt of a report submitted under subparagraph (A), each House shall provide copies of the re-
port to the chairman and ranking member of each standing committee with jurisdiction under the rules of the House of Representatives or the Senate to report a bill to amend the provision of law under which the rule is issued.

“(2)(A) The Comptroller General shall provide a report on each major rule to the committees of jurisdiction by the end of 15 calendar days after the submission or publication date as provided in section 802(b)(2). The report of the Comptroller General shall include an assessment of the agency’s compliance with procedural steps required by paragraph (1)(B).

“(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General’s report under subparagraph (A).

“(3) A major rule relating to a report submitted under paragraph (1) shall take effect upon enactment of a joint resolution of approval described in section 802 or as provided for in the rule following enactment of a joint resolution of approval described in section 802, whichever is later.

“(4) A nonmajor rule shall take effect as provided by section 803 after submission to Congress under paragraph (1).
“(5) If a joint resolution of approval relating to a major rule is not enacted within the period provided in subsection (b)(2), then a joint resolution of approval relating to the same rule may not be considered under this chapter in the same Congress by either the House of Representatives or the Senate.

“(b)(1) A major rule shall not take effect unless the Congress enacts a joint resolution of approval described under section 802.

“(2) If a joint resolution described in subsection (a) is not enacted into law by the end of 70 session days or legislative days, as applicable, beginning on the date on which the report referred to in section 801(a)(1)(A) is received by Congress (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress), then the rule described in that resolution shall be deemed not to be approved and such rule shall not take effect.

“(c)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a major rule may take effect for one 90-calendar-day period if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.
“(2) Paragraph (1) applies to a determination made by the President by Executive order that the major rule should take effect because such rule is—

“(A) necessary because of an imminent threat to health or safety or other emergency;

“(B) necessary for the enforcement of criminal laws;

“(C) necessary for national security; or

“(D) issued pursuant to any statute implementing an international trade agreement.

“(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 802.

“(d)(1) In addition to the opportunity for review otherwise provided under this chapter, in the case of any rule for which a report was submitted in accordance with subsection (a)(1)(A) during the period beginning on the date occurring—

“(A) in the case of the Senate, 60 session days,

or

“(B) in the case of the House of Representatives, 60 legislative days,

before the date the Congress is scheduled to adjourn a session of Congress through the date on which the same or succeeding Congress first convenes its next session, sec-
tions 802 and 803 shall apply to such rule in the suc-
ceeding session of Congress.

“(2)(A) In applying sections 802 and 803 for pur-
poses of such additional review, a rule described under
paragraph (1) shall be treated as though—

“(i) such rule were published in the Federal
Register on—

“(I) in the case of the Senate, the 15th
session day, or

“(II) in the case of the House of Rep-
resentatives, the 15th legislative day,

after the succeeding session of Congress first con-
venes; and

“(ii) a report on such rule were submitted to
Congress under subsection (a)(1) on such date.

“(B) Nothing in this paragraph shall be construed
to affect the requirement under subsection (a)(1) that a
report shall be submitted to Congress before a rule can
take effect.

“(3) A rule described under paragraph (1) shall take
effect as otherwise provided by law (including other sub-
sections of this section).
§ 802. Congressional approval procedure for major rules

(a) For purposes of this section, the term ‘joint resolution’ means only a joint resolution introduced on or after the date on which the report referred to in section 801(a)(1)(A) is received by Congress (excluding days either House of Congress is adjourned for more than 3 days during a session of Congress), the matter after the resolving clause of which is as follows: ‘That Congress approves the rule submitted by the ___ relating to ___.’ (The blank spaces being appropriately filled in).

(1) In the House, the majority leader of the House of Representatives (or his designee) and the minority leader of the House of Representatives (or his designee) shall introduce such joint resolution described in subsection (a) (by request), within 3 legislative days after Congress receives the report referred to in section 801(a)(1)(A).

(2) In the Senate, the majority leader of the Senate (or his designee) and the minority leader of the Senate (or his designee) shall introduce such joint resolution described in subsection (a) (by request), within 3 session days after Congress receives the report referred to in section 801(a)(1)(A).

(b)(1) A joint resolution described in subsection (a) shall be referred to the committees in each House of Con-
gress with jurisdiction under the rules of the House of Representatives or the Senate to report a bill to amend the provision of law under which the rule is issued.

“(2) For purposes of this section, the term ‘submission date’ means the date on which the Congress receives the report submitted under section 801(a)(1).

“(c) In the Senate, if the committee or committees to which a joint resolution described in subsection (a) has been referred have not reported it at the end of 15 session days after its introduction, such committee or committees shall be automatically discharged from further consideration of the resolution and it shall be placed on the calendar. A vote on final passage of the resolution shall be taken on or before the close of the 15th session day after the resolution is reported by the committee or committees to which it was referred, or after such committee or committees have been discharged from further consideration of the resolution.

“(d)(1) In the Senate, when the committee or committees to which a joint resolution is referred have reported, or when a committee or committees are discharged (under subsection (c)) from further consideration of a joint resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion
to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate until disposed of.

“(2) In the Senate, debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion to further limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

“(3) In the Senate, immediately following the conclusion of the debate on a joint resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the
Senate, the vote on final passage of the joint resolution shall occur.

“(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution described in subsection (a) shall be decided without debate.

“(e)(1) In the House of Representatives, if the committee or committees to which a joint resolution described in subsection (a) has been referred have not reported it at the end of 15 legislative days after its introduction, such committee or committees shall be automatically discharged from further consideration of the resolution and it shall be placed on the appropriate calendar. A vote on final passage of the resolution shall be taken on or before the close of the 15th legislative day after the resolution is reported by the committee or committees to which it was referred, or after such committee or committees have been discharged from further consideration of the resolution.

“(2)(A) A motion in the House of Representatives to proceed to the consideration of a resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.
“(B) Debate in the House of Representatives on a resolution shall be limited to not more than two hours, which shall be divided equally between those favoring and those opposing the resolution. A motion to further limit debate shall not be debatable. No amendment to, or motion to recommit, the resolution shall be in order. It shall not be in order to reconsider the vote by which a resolution is agreed to or disagreed to.

“(C) Motions to postpone, made in the House of Representatives with respect to the consideration of a resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

“(D) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to a resolution shall be decided without debate.

“(f) If, before the passage by one House of a joint resolution of that House described in subsection (a), that House receives from the other House a joint resolution described in subsection (a), then the following procedures shall apply with respect to a joint resolution described in subsection (a) of the House receiving the joint resolution—
“(1) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

“(2) the vote on final passage shall be on the joint resolution of the other House.

“(g) The enactment of a resolution of approval does not serve as a grant or modification of statutory authority by Congress for the promulgation of a rule, does not extinguish or affect any claim, whether substantive or procedural, against any alleged defect in a rule, and shall not form part of the record before the court in any judicial proceeding concerning a rule.

“(h) This section and section 803 are enacted by Congress—

“(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

“(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time,
in the same manner, and to the same extent as in
the case of any other rule of that House.

“§803. Congressional disapproval procedure for
nonmajor rules

“(a) For purposes of this section, the term ‘joint res-
olution’ means only a joint resolution introduced in the
period beginning on the date on which the report referred
to in section 801(a)(1)(A) is received by Congress and
ending 60 days thereafter (excluding days either House
of Congress is adjourned for more than 3 days during a
session of Congress), the matter after the resolving clause
of which is as follows: ‘That Congress disapproves the
nonmajor rule submitted by the __ __ relating to __ __,
and such rule shall have no force or effect.’ (The blank
spaces being appropriately filled in).

“(b)(1) A joint resolution described in subsection (a)
shall be referred to the committees in each House of Con-
gress with jurisdiction.

“(2) For purposes of this section, the term ‘submis-
sion or publication date’ means the later of the date on
which—

“(A) the Congress receives the report submitted
under section 801(a)(1); or

“(B) the nonmajor rule is published in the Fed-
eral Register, if so published.
“(c) In the Senate, if the committee to which is referred a joint resolution described in subsection (a) has not reported such joint resolution (or an identical joint resolution) at the end of 15 session days after the date of introduction of the joint resolution, such committee may be discharged from further consideration of such joint resolution upon a petition supported in writing by 30 Members of the Senate, and such joint resolution shall be placed on the calendar.

“(d)(1) In the Senate, when the committee to which a joint resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of a joint resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution
shall remain the unfinished business of the Senate until disposed of.

“(2) In the Senate, debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion to further limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

“(3) In the Senate, immediately following the conclusion of the debate on a joint resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, the vote on final passage of the joint resolution shall occur.

“(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution described in subsection (a) shall be decided without debate.

“(e) In the Senate the procedure specified in subsection (e) or (d) shall not apply to the consideration of a joint resolution respecting a nonmajor rule—
“(1) after the expiration of the 60 session days beginning with the applicable submission or publication date, or

“(2) if the report under section 801(a)(1)(A) was submitted during the period referred to in section 801(d)(1), after the expiration of the 60 session days beginning on the 15th session day after the succeeding session of Congress first convenes.

“(f) If, before the passage by one House of a joint resolution of that House described in subsection (a), that House receives from the other House a joint resolution described in subsection (a), then the following procedures shall apply:

“(1) The joint resolution of the other House shall not be referred to a committee.

“(2) With respect to a joint resolution described in subsection (a) of the House receiving the joint resolution—

“(A) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

“(B) the vote on final passage shall be on the joint resolution of the other House.

“§ 804. Definitions

“For purposes of this chapter—
“(1) the term ‘Federal agency’—

“(A) means any agency as that term is defined in section 551(1); and

“(B) includes the Board of Governors of the Federal Reserve System, the Bureau of Consumer Financial Protection, the Commodity Futures Trading Commission, the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, the Financial Stability Oversight Council, the Office of the Comptroller of the Currency, the Office of Financial Research, the National Credit Union Administration, and the Securities and Exchange Commission;

“(2) the term ‘major rule’ means any rule, including an interim final rule, that the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget finds has resulted in or is likely to result in—

“(A) an annual effect on the economy of $100,000,000 or more;

“(B) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
“(C) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets;

“(3) the term ‘nonmajor rule’ means any rule that is not a major rule; and

“(4) the term ‘rule’ has the meaning given such term in section 551, except that such term does not include—

“(A) any rule of particular applicability, including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefore, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing;

“(B) any rule relating to agency management or personnel;

“(C) any rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties; or

“(D) a rule that is promulgated by the Board of Governors of the Federal Reserve Sys-
tem or the Federal Open Market Committee under section 10A, 10B, 13, 13A, or 19 of the Federal Reserve Act, or any of subsections (a) through (f) of section 14 of that Act.

§ 805. Judicial review

(a) No determination, finding, action, or omission under this chapter shall be subject to judicial review.

(b) Notwithstanding subsection (a), a court may determine whether a Federal agency has completed the necessary requirements under this chapter for a rule to take effect.

§ 806. Exemption for monetary policy

Nothing in this chapter shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.

§ 807. Effective date of certain rules

Notwithstanding section 801—

(1) any rule that establishes, modifies, opens, closes, or conducts a regulatory program for a commercial, recreational, or subsistence activity related to hunting, fishing, or camping; or

(2) any rule other than a major rule which an agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in
the rule issued) that notice and public procedure
thereon are impracticable, unnecessary, or contrary
to the public interest,
shall take effect at such time as the Federal agency pro-
mulgating the rule determines.”.

TITLE V—EPA REGULATORY RELIEF

SEC. 501. SHORT TITLE.

This title may be cited as the “EPA Regulatory Re-

SEC. 502. LEGISLATIVE STAY.

(a) Establishment of Standards.—In place of
the rules specified in subsection (b), and notwithstanding
the date by which such rules would otherwise be required
to be promulgated, the Administrator of the Environ-
mental Protection Agency (referred to in this title as the
“Administrator”) shall—

(1) propose regulations for industrial, commer-
cial, and institutional boilers and process heaters,
and commercial and industrial solid waste inciner-
ator units, subject to any of the rules specified in
subsection (b)—

(A) establishing maximum achievable con-
trol technology standards, performance stand-
ards, and other requirements under sections
112 and 129, as applicable, of the Clean Air Act (42 U.S.C. 7412, 7429); and

(B) identifying nonhazardous secondary materials that, when used as fuels or ingredients in combustion units of such boilers, process heaters, or incinerator units are solid waste under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) (commonly known as the “Resource Conservation and Recovery Act”) for purposes of determining the extent to which such combustion units are required to meet the emissions standards under section 112 of the Clean Air Act (42 U.S.C. 7412) or the emission standards under section 129 of that Act (42 U.S.C. 7429); and

(2) finalize the regulations on the date that is 15 months after the date of enactment of this Act, or on such later date as may be determined by the Administrator.

(b) Stay of Earlier Rules.—The following rules are of no force or effect, shall be treated as though the rules had never taken effect, and shall be replaced as described in subsection (a):

(1) The rule entitled “National Emission Standards for Hazardous Air Pollutants for Major
Sources: Industrial, Commercial, and Institutional
Boilers and Process Heaters” (76 Fed. Reg. 15608)
(March 21, 2011).

(2) The rule entitled “National Emission
Standards for Hazardous Air Pollutants for Area
Sources: Industrial, Commercial, and Institutional

(3) The rule entitled “Standards of Perform-
ance for New Stationary Sources and Emission
Guidelines for Existing Sources: Commercial and In-
dustrial Solid Waste Incineration Units” (76 Fed.
Reg. 15704) (March 21, 2011).

(4) The rule entitled “Identification of Non-
Hazardous Secondary Materials That Are Solid

(e) INAPPLICABILITY OF CERTAIN PROVISIONS.—
With respect to any standard required by subsection (a)
to be promulgated in regulations under section 112 of the
Clean Air Act (42 U.S.C. 7412), the provisions of sub-
sections (g)(2) and (j) of that section shall not apply prior
to the effective date of the standard specified in those reg-
ulations.
SEC. 503. COMPLIANCE DATES.

(a) Establishment of Compliance Dates.—For each regulation promulgated pursuant to section 702, the Administrator—

(1) shall establish a date for compliance with standards and requirements under such regulation that is, notwithstanding any other provision of law, not earlier than 5 years after the effective date of the regulation; and

(2) in proposing a date for such compliance, shall take into consideration—

(A) the costs of achieving emissions reductions;

(B) any nonair quality health and environmental impact and energy requirements of the standards and requirements;

(C) the feasibility of implementing the standards and requirements, including the time needed—

(i) to obtain necessary permit approvals; and

(ii) to procure, install, and test control equipment;

(D) the availability of equipment, suppliers, and labor, given the requirements of the regulation and other proposed or finalized regu-
lations of the Environmental Protection Agency;

and

(E) potential net employment impacts.

(b) NEW SOURCES.—The date on which the Administrator proposes a regulation pursuant to section 702(a)(1) establishing an emission standard under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429) shall be treated as the date on which the Administrator first proposes such a regulation for purposes of applying the definition of a new source under section 112(a)(4) of that Act (42 U.S.C. 7412(a)(4)) or the definition of a new solid waste incineration unit under section 129(g)(2) of that Act (42 U.S.C. 7429(g)(2)).

e) RULE OF CONSTRUCTION.—Nothing in this title restricts or otherwise affects paragraph (3)(B) or (4) of section 112(i) of the Clean Air Act (42 U.S.C. 7412(i)).

SEC. 504. ENERGY RECOVERY AND CONSERVATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, to ensure the recovery and conservation of energy consistent with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) (commonly known as the “Resource Conservation and Recovery Act of 1976”), in promulgating regulations under section 702(a) that address the subject matter of the regulations described in paragraphs (3) and (4) of section 702(b), the Administrator shall—
(1) adopt the definitions of the terms “commercial and industrial solid waste incineration unit”, “commercial and industrial waste”, and “contained gaseous material” contained in the regulation entitled “Standards of Performance for New Stationary Sources and Emission Guidelines for Existing Sources: Commercial and Industrial Solid Waste Incineration Units” (65 Fed. Reg. 75338 (December 1, 2000)); and

(2) identify nonhazardous secondary material as not to be solid waste for purposes of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) if—

(A) the material—

(i) does not meet the definition of commercial and industrial waste; and

(ii) is on the list published by the Administrator under subsection (b); or

(B) in the case of the material that is a gas, the material does not meet the definition of contained gaseous material.

(b) List of Nonhazardous Secondary Materials.—

(1) In general.—Not later than 120 days after the date of enactment of this Act, the Administrator shall publish a list of nonhazardous secondary
materials that are not solid waste when combusted in units designed for energy recovery, including—

(A) without limitation, all forms of biomass, including—

(i) agricultural and forest-derived biomass;

(ii) biomass crops, vines, and orchard trees;

(iii) bagasse and other crop and tree residues, including—

(I) hulls and seeds;

(II) spent grains;

(III) byproducts of cotton;

(IV) corn and peanut production;

(V) rice milling and grain elevator operations;

(VI) cellulosic biofuels; and

(VII) byproducts of ethanol natural fermentation processes;

(iv) hogged fuel, including wood pallets, sawdust, and wood pellets;

(v) wood debris from forests and urban areas;

(vi) resinated wood and other resinated biomass-derived residuals, includ-
ing trim, sanderdust, offcuts, and wood-
working residuals;

(vii) creosote-treated, borate-treated,
sap-stained, and other treated wood;

(viii) residuals from wastewater treat-
ment by the manufacturing industry, in-
cluding process wastewater with significant
British thermal unit ("Btu") value;

(ix) paper and paper or cardboard re-
cycling residuals, including paper-derived
fuel cubes, paper fines, and paper and
cardboard rejects;

(x) turpentine, turpentine derivatives,
pine tar, rectified methanol, glycerine, lum-
ber kiln condensates, and wood char;

(xi) tall oil and related soaps;

(xii) biogases or bioliquids generated
from biomass materials, wastewater oper-
ations, or landfill operations;

(xiii) processed biomass derived from
construction and demolition debris for the
purpose of fuel production; and

(xiv) animal manure and bedding ma-
terial;

(B) solid and emulsified paraffin;
(C) petroleum and chemical reaction and distillation byproducts and residues, alcohol, ink, and nonhalogenated solvents;

(D) tire-derived fuel, including factory scrap tire and related material;

(E) foundry sand processed in thermal reclamation units;

(F) coal refuse and coal combustion residuals;

(G) shredded cloth and carpet scrap;

(H) latex paint water, organic printing dyes and inks, recovered paint solids, and nonmetallic paint sludges;

(I) nonchlorinated plastics;

(J) all used oil that qualifies as recycled oil under section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903);

(K) process densified fuels that contain any of the materials described in this paragraph; and

(L) any other specific or general categories of material that the Administrator determines the combustion of which is for use as a fuel pursuant to paragraph (2).

(2) Additions to the List.—
(A) IN GENERAL.—To provide greater regu-

latory certainty, the Administrator may, after

public notice and opportunity to comment, add

nonhazardous secondary materials to the list

published under paragraph (1)—

(i) as the Administrator determines

necessary; or

(ii) based on a petition submitted by

any person.

(B) RESPONSE.—Not later than 120 days

after receiving any petition under subparagraph

(A)(ii), the Administrator shall respond to the

petition.

(C) REQUIREMENTS.—In making a deter-

mination under this paragraph, the Adminis-

trator may decline to add a material to the list

under paragraph (1) if the Administrator deter-

mines that regulation under section 112 of the

Clean Air Act (42 U.S.C. 7412) would not rea-

sonably protect public health with an ample

margin of safety.

SEC. 505. OTHER PROVISIONS.

(a) ESTABLISHMENT OF STANDARDS ACHIEVABLE IN

PRACTICE.—In promulgating rules under section 702(a),

the Administrator shall ensure that emissions standards
for existing and new sources established under section 112 or 129 of the Clean Air Act (42 U.S.C. 7412, 7429), as applicable, can be met under actual operating conditions consistently and concurrently with emission standards for all other air pollutants regulated by the rule for the source category, taking into account variability in actual source performance, source design, fuels, inputs, controls, ability to measure the pollutant emissions, and operating conditions.

(b) REGULATORY ALTERNATIVES.—For each regulation promulgated pursuant to section 702(a), from among the range of regulatory alternatives authorized under the Clean Air Act (42 U.S.C. 7401 et seq.) including work practice standards under section 112(h) of that Act (42 U.S.C. 7412(h)), the Administrator shall impose the least burdensome, consistent with the purposes of that Act and Executive Order 13563 (76 Fed. Reg. 3821 (January 21, 2011)).

TITLE VI—REGULATORY TIME-OUT

SEC. 601. SHORT TITLE.

This title may be cited as the “Regulatory Time-Out Act of 2011”.

SEC. 602. DEFINITIONS.

In this title—
(1) the term “agency” has the meaning given that term under section 3502(1) of title 44, United States Code; and

(2) the term “covered regulation” means a final regulation that—

(A) directly or indirectly increases costs on businesses in a manner which will have an adverse effect on job creation, job retention, productivity, competitiveness, or the efficient functioning of the economy;

(B) is likely to—

(i) have an annual effect on the economy of $100,000,000 or more;

(ii) adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(iii) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(iv) materially alter the budgetary impact of entitlements, grants, user fees, or
loan programs or the rights and obligations of recipients thereof; or

(v) raise novel legal or policy issues;

and

(C) did not take effect before September 1, 2011.

SEC. 603. TIME-OUT PERIOD FOR REGULATIONS.

(a) PRIOR REGULATIONS.—A covered regulation that took effect before the date of enactment of this Act shall be treated as though that regulation never took effect for the 1-year period beginning on the date of enactment of this Act.

(b) PROSPECTIVE REGULATIONS.—A covered regulation that has not taken effect before the date of enactment of this Act, may not take effect during the 1-year period beginning on the date of enactment of this Act.

SEC. 604. EXEMPTIONS.

(a) IN GENERAL.—The head of an agency may exempt a covered regulation prescribed by that agency from the application of section 603, if the head of the agency—

(1) makes a specific finding that the covered regulation—

(A) is necessary due to an imminent threat to human health or safety, or any other emergency;
(B) is necessary for the enforcement of a criminal law;

(C) has as its principal effect—

(i) fostering private sector job creation and the enhancement of the competitiveness of workers in the United States;

(ii) encouraging economic growth; or

(iii) repealing, narrowing, or streamlining a rule, regulation, or administrative process, or otherwise reducing regulatory burdens;

(D) pertains to a military or foreign affairs function of the United States; or

(E) is limited to interpreting, implementing, or administering the Internal Revenue Code of 1986; and

(2) submits the finding to Congress and publishes the finding in the Federal Register.

(b) REVIEW.—Not later than 10 days after the date of enactment of this Act each agency shall submit any covered regulation that the head of the agency determines is exempt under this section to the Office of Management and Budget and Congress.

(c) NONDELEGABLE AUTHORITY.—The head of an agency may not delegate the authority provided under this
section to exempt the application of any provision of this title.

**TITLE VII—RESCISSION OF UNSPENT FEDERAL FUNDS TO OFFSET LOSS IN REVENUES**

**SEC. 701. RESCISSION.**

(a) **IN GENERAL.**—Notwithstanding any other provision of law, except as provided in subsection (c), of all appropriated discretionary funds remaining unobligated as of the date of enactment of this Act, $40,000,000,000 is rescinded.

(b) **IMPLEMENTATION.**—

(1) **IN GENERAL.**—The Director of the Office of Management and Budget shall determine and identify—

(A) to which appropriation accounts the rescission under subsection (a) shall apply; and

(B) the amount of the rescission that shall apply to each such account.

(2) **REPORT.**—Not later than 60 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall submit to Congress and the Secretary of the Treasury a report
that describes the accounts and amounts determined
and identified for rescission under paragraph (1).

(c) EXCEPTION.—This section shall not apply to the
unobligated funds of the Department of Defense, the
Corps of Engineers, or the Department of Veterans Af-
fairs.
A BILL

S. 1786

112TH CONGRESS

November 2, 2011

Read twice and ordered placed on the calendar

To facilitate job creation by reducing regulatory uncertainty, providing for rational evaluation of regulations, providing flexibilities to States and localities, providing for infrastructure spending, and for other purposes.