

112TH CONGRESS  
1ST SESSION

# S. 1813

To reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 7, 2011

Mrs. BOXER (for herself, Mr. INHOFE, Mr. BAUCUS, and Mr. VITTER) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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## A BILL

To reauthorize Federal-aid highway and highway safety construction programs, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Moving Ahead for Progress in the 21st Century Act” or  
6 the “MAP–21”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.

### Subtitle A—Authorizations and Programs

- Sec. 1101. Authorization of appropriations.
- Sec. 1102. Obligation ceiling.
- Sec. 1103. Definitions.
- Sec. 1104. National highway system.
- Sec. 1105. Apportionment.
- Sec. 1106. National highway performance program.
- Sec. 1107. Emergency relief.
- Sec. 1108. Transportation mobility program.
- Sec. 1109. Workforce development.
- Sec. 1110. Highway use tax evasion projects.
- Sec. 1111. National bridge and tunnel inventory and inspection standards.
- Sec. 1112. Highway safety improvement program.
- Sec. 1113. Congestion mitigation and air quality improvement program.
- Sec. 1114. Territorial and Puerto Rico highway program.
- Sec. 1115. National freight program.
- Sec. 1116. Federal lands and tribal transportation programs.
- Sec. 1117. Alaska Highway.
- Sec. 1118. Projects of national and regional significance.

### Subtitle B—Performance Management

- Sec. 1201. Metropolitan transportation planning.
- Sec. 1202. Statewide and nonmetropolitan transportation planning.
- Sec. 1203. National goals.

### Subtitle C—Acceleration of Project Delivery

- Sec. 1301. Project delivery initiative.
- Sec. 1302. Clarified eligibility for early acquisition activities prior to completion of NEPA review.
- Sec. 1303. Efficiencies in contracting.
- Sec. 1304. Innovative project delivery methods.
- Sec. 1305. Assistance to affected State and Federal agencies.
- Sec. 1306. Application of categorical exclusions for multimodal projects.
- Sec. 1307. State assumption of responsibilities for categorical exclusions.
- Sec. 1308. Surface transportation project delivery program.
- Sec. 1309. Categorical exclusion for projects within the right-of-way.
- Sec. 1310. Programmatic agreements and additional categorical exclusions.
- Sec. 1311. Accelerated decisionmaking in environmental reviews.
- Sec. 1312. Memoranda of agency agreements for early coordination.
- Sec. 1313. Accelerated decisionmaking.
- Sec. 1314. Environmental procedures initiative.
- Sec. 1315. Alternative relocation payment demonstration program.
- Sec. 1316. Review of Federal project and program delivery.

### Subtitle D—Highway Safety

- Sec. 1401. Jason's Law.
- Sec. 1402. Open container requirements.
- Sec. 1403. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.
- Sec. 1404. Adjustments to penalty provisions.
- Sec. 1405. Highway worker safety.

### Subtitle E—Miscellaneous

- Sec. 1501. Program efficiencies.
- Sec. 1502. Project approval and oversight.
- Sec. 1503. Standards.
- Sec. 1504. Construction.
- Sec. 1505. Maintenance.
- Sec. 1506. Federal share payable.
- Sec. 1507. Transferability of Federal-aid highway funds.
- Sec. 1508. Special permits during periods of national emergency.
- Sec. 1509. Electric vehicle charging stations.
- Sec. 1510. HOV facilities.
- Sec. 1511. Construction equipment and vehicles.
- Sec. 1512. Use of debris from demolished bridges and overpasses.
- Sec. 1513. Extension of public transit vehicle exemption from axle weight restrictions.
- Sec. 1514. Uniform Relocation Assistance Act amendments.
- Sec. 1515. Use of youth service and conservation corps.
- Sec. 1516. Consolidation of programs; repeal of obsolete provisions.
- Sec. 1517. Rescissions.
- Sec. 1518. State autonomy for culvert pipe selection.

## TITLE II—RESEARCH AND EDUCATION

### Subtitle A—Funding

- Sec. 2101. Authorization of appropriations.

### Subtitle B—Research, Technology, and Education

- Sec. 2201. Research, technology, and education.
- Sec. 2202. Surface transportation research, development, and technology.
- Sec. 2203. Research and technology development and deployment.
- Sec. 2204. Training and education.
- Sec. 2205. State planning and research.
- Sec. 2206. International highway transportation program.
- Sec. 2207. Surface transportation environmental cooperative research program.
- Sec. 2208. National cooperative freight research.
- Sec. 2209. University transportation centers program.
- Sec. 2210. Bureau of transportation statistics.
- Sec. 2211. Administrative authority.
- Sec. 2212. Transportation research and development strategic planning.

### Subtitle C—Intelligent Transportation Systems Research

- Sec. 2301. Use of funds for ITS activities.
- Sec. 2302. Goals and purposes.
- Sec. 2303. General authorities and requirements.
- Sec. 2304. Research and development.
- Sec. 2305. National architecture and standards.
- Sec. 2306. 5.9 GHz vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment.

## TITLE III—AMERICA FAST FORWARD FINANCING INNOVATION

- Sec. 3001. Short title.
- Sec. 3002. Transportation Infrastructure Finance and Innovation Act amendments.
- Sec. 3003. State infrastructure banks.

## TITLE IV—HIGHWAY SPENDING CONTROLS

Sec. 4001. Highway spending controls.

1 **SEC. 2. DEFINITIONS.**

2 In this Act, the following definitions apply:

3 (1) DEPARTMENT.—The term “Department”  
4 means the Department of Transportation.

5 (2) SECRETARY.—The term “Secretary” means  
6 the Secretary of Transportation.

7 **TITLE I—FEDERAL-AID**  
8 **HIGHWAYS**  
9 **Subtitle A—Authorizations and**  
10 **Programs**

11 **SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.**

12 (a) IN GENERAL.—The following sums are author-  
13 ized to be appropriated out of the Highway Trust Fund  
14 (other than the Mass Transit Account):

15 (1) FEDERAL-AID HIGHWAY PROGRAM.—For  
16 the national highway performance program under  
17 section 119 of title 23, United States Code, the  
18 transportation mobility program under section 133  
19 of that title, the highway safety improvement pro-  
20 gram under section 148 of that title, the congestion  
21 mitigation and air quality improvement program  
22 under section 149 of that title, the national freight  
23 program under section 167 of that title, and to carry  
24 out section 134 of that title—

1 (A) \$39,143,000,000 for fiscal year 2012;

2 and

3 (B) \$39,806,000,000 for fiscal year 2013.

4 (2) TRANSPORTATION INFRASTRUCTURE FI-  
5 NANCE AND INNOVATION PROGRAM.—For credit as-  
6 sistance under the transportation infrastructure fi-  
7 nance and innovation program under chapter 6 of  
8 title 23, United States Code, \$1,000,000,000 for  
9 each of fiscal years 2012 and 2013.

10 (3) FEDERAL LANDS AND TRIBAL TRANSPOR-  
11 TATION PROGRAMS.—

12 (A) TRIBAL TRANSPORTATION PRO-  
13 GRAM.—For the tribal transportation program  
14 under section 202 of title 23, United States  
15 Code, \$450,000,000 for each of fiscal years  
16 2012 and 2013.

17 (B) FEDERAL LANDS TRANSPORTATION  
18 PROGRAM.—For the Federal lands transpor-  
19 tation program under section 203 of title 23,  
20 United States Code, \$300,000,000 for each of  
21 fiscal years 2012 and 2013, of which  
22 \$260,000,000 of the amount made available for  
23 each fiscal year shall be the amount for the Na-  
24 tional Park Service and the United States Fish  
25 and Wildlife Service.

1 (C) FEDERAL LANDS ACCESS PROGRAM.—

2 For the Federal lands access program under  
3 section 204 of title 23, United States Code,  
4 \$250,000,000 for each of fiscal years 2012 and  
5 2013.

6 (4) TERRITORIAL AND PUERTO RICO HIGHWAY  
7 PROGRAM.—For the territorial and Puerto Rico  
8 highway program under section 165 of title 23,  
9 United States Code, \$180,000,000 for each of fiscal  
10 years 2012 and 2013.

11 (b) DISADVANTAGED BUSINESS ENTERPRISES.—

12 (1) DEFINITIONS.—In this subsection, the fol-  
13 lowing definitions apply:

14 (A) SMALL BUSINESS CONCERN.—

15 (i) IN GENERAL.—The term “small  
16 business concern” means a small business  
17 concern (as the term is used in section 3  
18 of the Small Business Act (15 U.S.C.  
19 632)).

20 (ii) EXCLUSIONS.—The term “small  
21 business concern” does not include any  
22 concern or group of concerns controlled by  
23 the same socially and economically dis-  
24 advantaged individual or individuals that  
25 have average annual gross receipts during

1           the preceding 3 fiscal years in excess of  
2           \$22,410,000, as adjusted annually by the  
3           Secretary for inflation.

4           (B) SOCIALLY AND ECONOMICALLY DIS-  
5           ADVANTAGED INDIVIDUALS.—The term “so-  
6           cially and economically disadvantaged individ-  
7           uals” means—

8                   (i) women; and

9                   (ii) any other socially and economi-  
10                  cally disadvantaged individuals (as the  
11                  term is used in section 8(d) of the Small  
12                  Business Act (15 U.S.C. 637(d)) and rel-  
13                  evant subcontracting regulations promul-  
14                  gated pursuant to that Act).

15           (2) AMOUNTS FOR SMALL BUSINESS CON-  
16           CERNS.—Except to the extent that the Secretary de-  
17           termines otherwise, not less than 10 percent of the  
18           amounts made available for any program under ti-  
19           tles I, II, and III of this Act and section 403 of title  
20           23, United States Code, shall be expended through  
21           small business concerns owned and controlled by so-  
22           cially and economically disadvantaged individuals.

23           (3) ANNUAL LISTING OF DISADVANTAGED BUSI-  
24           NESS ENTERPRISES.—Each State shall annually—

1 (A) survey and compile a list of the small  
2 business concerns referred to in paragraph (2)  
3 in the State, including the location of the small  
4 business concerns in the State; and

5 (B) notify the Secretary, in writing, of the  
6 percentage of the small business concerns that  
7 are controlled by—

8 (i) women;

9 (ii) socially and economically dis-  
10 advantaged individuals (other than  
11 women); and

12 (iii) individuals who are women and  
13 are otherwise socially and economically dis-  
14 advantaged individuals.

15 (4) UNIFORM CERTIFICATION.—

16 (A) IN GENERAL.—The Secretary shall es-  
17 tablish minimum uniform criteria for use by  
18 State governments in certifying whether a con-  
19 cern qualifies as a small business concern for  
20 the purpose of this subsection.

21 (B) INCLUSIONS.—The minimum uniform  
22 criteria established under subparagraph (A)  
23 shall include, with respect to a potential small  
24 business concern—

25 (i) on-site visits;



- 1 (ii) personal interviews with personnel;  
2 (iii) issuance or inspection of licenses;  
3 (iv) analyses of stock ownership;  
4 (v) listings of equipment;  
5 (vi) analyses of bonding capacity;  
6 (vii) listings of work completed;  
7 (viii) examination of the resumes of  
8 principal owners;  
9 (ix) analyses of financial capacity; and  
10 (x) analyses of the type of work pre-  
11 ferred.

12 (5) REPORTING.—The Secretary shall establish  
13 minimum requirements for use by State govern-  
14 ments in reporting to the Secretary—

15 (A) information concerning disadvantaged  
16 business enterprise awards, commitments, and  
17 achievements; and

18 (B) such other information as the Sec-  
19 retary determines to be appropriate for the  
20 proper monitoring of the disadvantaged busi-  
21 ness enterprise program.

22 (6) COMPLIANCE WITH COURT ORDERS.—Noth-  
23 ing in this subsection limits the eligibility of an indi-  
24 vidual or entity to receive funds made available  
25 under titles I, II, and III of this Act and section 403

1 of title 23, United States Code, if the entity or per-  
2 son is prevented, in whole or in part, from complying  
3 with paragraph (2) because a Federal court issues a  
4 final order in which the court finds that a require-  
5 ment or the implementation of paragraph (2) is un-  
6 constitutional.

7 **SEC. 1102. OBLIGATION CEILING.**

8 (a) GENERAL LIMITATION.—Subject to subsection  
9 (e), and notwithstanding any other provision of law, the  
10 obligations for Federal-aid highway and highway safety  
11 construction programs shall not exceed—

12 (1) \$41,564,000,000 for fiscal year 2012; and

13 (2) \$42,227,000,000 for fiscal year 2013.

14 (b) EXCEPTIONS.—The limitations under subsection  
15 (a) shall not apply to obligations under or for—

16 (1) section 125 of title 23, United States Code;

17 (2) section 147 of the Surface Transportation  
18 Assistance Act of 1978 (23 U.S.C. 144 note; 92  
19 Stat. 2714);

20 (3) section 9 of the Federal-Aid Highway Act  
21 of 1981 (95 Stat. 1701);

22 (4) subsections (b) and (j) of section 131 of the  
23 Surface Transportation Assistance Act of 1982 (96  
24 Stat. 2119);

1           (5) subsections (b) and (c) of section 149 of the  
2     Surface Transportation and Uniform Relocation As-  
3     sistance Act of 1987 (101 Stat. 198);

4           (6) sections 1103 through 1108 of the Inter-  
5     modal Surface Transportation Efficiency Act of  
6     1991 (105 Stat. 2027);

7           (7) section 157 of title 23, United States Code  
8     (as in effect on June 8, 1998);

9           (8) section 105 of title 23, United States Code  
10    (as in effect for fiscal years 1998 through 2004, but  
11    only in an amount equal to \$639,000,000 for each  
12    of those fiscal years);

13          (9) Federal-aid highway programs for which ob-  
14    ligation authority was made available under the  
15    Transportation Equity Act for the 21st Century  
16    (112 Stat. 107) or subsequent Acts for multiple  
17    years or to remain available until expended, but only  
18    to the extent that the obligation authority has not  
19    lapsed or been used;

20          (10) section 105 of title 23, United States Code  
21    (but, for each of fiscal years 2005 through 2011,  
22    only in an amount equal to \$639,000,000 for each  
23    of those fiscal years);

24          (11) section 1603 of the Safe, Accountable,  
25    Flexible, Efficient Transportation Equity Act: A

1 Legacy for Users (119 Stat. 1248), to the extent  
2 that funds obligated in accordance with that section  
3 were not subject to a limitation on obligations at the  
4 time at which the funds were initially made available  
5 for obligation; and

6 (12) section 119 of title 23, United States Code  
7 (but, for each of fiscal years 2012 through 2013,  
8 only in an amount equal to \$639,000,000 for each  
9 of those fiscal years).

10 (c) DISTRIBUTION OF OBLIGATION AUTHORITY.—

11 For each of fiscal years 2012 through 2013, the Sec-  
12 retary—

13 (1) shall not distribute obligation authority pro-  
14 vided by subsection (a) for the fiscal year for—

15 (A) amounts authorized for administrative  
16 expenses and programs by section 104(a) of  
17 title 23, United States Code; and

18 (B) amounts authorized for the Bureau of  
19 Transportation Statistics;

20 (2) shall not distribute an amount of obligation  
21 authority provided by subsection (a) that is equal to  
22 the unobligated balance of amounts made available  
23 from the Highway Trust Fund (other than the Mass  
24 Transit Account) for Federal-aid highway and high-  
25 way safety construction programs for previous fiscal

1 years the funds for which are allocated by the Sec-  
2 retary;

3 (3) shall determine the proportion that—

4 (A) the obligation authority provided by  
5 subsection (a) for the fiscal year, less the aggre-  
6 gate of amounts not distributed under para-  
7 graphs (1) and (2) of this subsection; bears to

8 (B) the total of the sums authorized to be  
9 appropriated for the Federal-aid highway and  
10 highway safety construction programs (other  
11 than sums authorized to be appropriated for  
12 provisions of law described in paragraphs (1)  
13 through (11) of subsection (b) and sums au-  
14 thorized to be appropriated for section 119 of  
15 title 23, United States Code, equal to the  
16 amount referred to in subsection (b)(12) for the  
17 fiscal year), less the aggregate of the amounts  
18 not distributed under paragraphs (1) and (2) of  
19 this subsection;

20 (4) shall distribute the obligation authority pro-  
21 vided by subsection (a), less the aggregate amounts  
22 not distributed under paragraphs (1) and (2), for  
23 each of the programs that are allocated by the Sec-  
24 retary under this Act and title 23, United States

1 Code (other than to programs to which paragraph  
2 (1) applies), by multiplying—

3 (A) the proportion determined under para-  
4 graph (3); by

5 (B) the amounts authorized to be appro-  
6 priated for each such program for the fiscal  
7 year; and

8 (5) shall distribute the obligation authority pro-  
9 vided by subsection (a), less the aggregate amounts  
10 not distributed under paragraphs (1) and (2) and  
11 the amounts distributed under paragraph (4), for  
12 Federal-aid highway and highway safety construc-  
13 tion programs that are apportioned by the Secretary  
14 under title 23, United States Code (other than the  
15 amounts apportioned for the national highway per-  
16 formance program in section 119 of title 23, United  
17 States Code, that are exempt from the limitation  
18 under subsection (b)(12)) in the proportion that—

19 (A) amounts authorized to be appropriated  
20 for the programs that are apportioned under  
21 title 23, United States Code, to each State for  
22 the fiscal year; bears to

23 (B) the total of the amounts authorized to  
24 be appropriated for the programs that are ap-

1           portioned under title 23, United States Code, to  
2           all States for the fiscal year.

3           (d) REDISTRIBUTION OF UNUSED OBLIGATION AU-  
4 THORITY.—Notwithstanding subsection (c), the Secretary  
5 shall, after August 1 of each of fiscal years 2012 through  
6 2013—

7           (1) revise a distribution of the obligation au-  
8 thority made available under subsection (c) if an  
9 amount distributed cannot be obligated during that  
10 fiscal year; and

11           (2) redistribute sufficient amounts to those  
12 States able to obligate amounts in addition to those  
13 previously distributed during that fiscal year, giving  
14 priority to those States having large unobligated bal-  
15 ances of funds apportioned under sections 144 (as in  
16 effect on the day before the date of enactment of  
17 this Act) and 104 of title 23, United States Code.

18           (e) APPLICABILITY OF OBLIGATION LIMITATIONS TO  
19 TRANSPORTATION RESEARCH PROGRAMS.—

20           (1) IN GENERAL.—Except as provided in para-  
21 graph (2), obligation limitations imposed by sub-  
22 section (a) shall apply to contract authority for  
23 transportation research programs carried out  
24 under—

1 (A) chapter 5 of title 23, United States  
2 Code; and

3 (B) title II of this Act.

4 (2) EXCEPTION.—Obligation authority made  
5 available under paragraph (1) shall—

6 (A) remain available for a period of 4 fis-  
7 cal years; and

8 (B) be in addition to the amount of any  
9 limitation imposed on obligations for Federal-  
10 aid highway and highway safety construction  
11 programs for future fiscal years.

12 (f) REDISTRIBUTION OF CERTAIN AUTHORIZED  
13 FUNDS.—

14 (1) IN GENERAL.—Not later than 30 days after  
15 the date of distribution of obligation authority under  
16 subsection (c) for each of fiscal years 2012 through  
17 2013, the Secretary shall distribute to the States  
18 any funds that—

19 (A) are authorized to be appropriated for  
20 the fiscal year for Federal-aid highway pro-  
21 grams; and

22 (B) the Secretary determines will not be  
23 allocated to the States, and will not be available  
24 for obligation, for the fiscal year because of the



1           imposition of any obligation limitation for the  
2           fiscal year.

3           (2) **RATIO.**—Funds shall be distributed under  
4           paragraph (1) in the same proportion as the dis-  
5           tribution of obligation authority under subsection  
6           (c)(5).

7           (3) **AVAILABILITY.**—Funds distributed to each  
8           State under paragraph (1) shall be available for any  
9           purpose described in section 133(c) of title 23,  
10          United States Code.

11 **SEC. 1103. DEFINITIONS.**

12          (a) **DEFINITIONS.**—Section 101(a) of title 23, United  
13          States Code, is amended—

14               (1) by striking paragraphs (6), (7), (9), (12),  
15               (19), (20), (24), (25), (26), (28), (38), and (39);

16               (2) by redesignating paragraphs (2), (3), (4),  
17               (5), (8), (13), (14), (15), (16), (17), (18), (21),  
18               (22), (23), (27), (29), (30), (31), (32), (33), (34),  
19               (35), (36), and (37) as paragraphs (3), (4), (5), (6),  
20               (9), (12), (13), (14), (15), (16), (17), (18), (19),  
21               (20), (21), (22), (23), (24), (25), (26), (28), (29),  
22               (33), and (34), respectively;

23               (3) by inserting after paragraph (1) the fol-  
24               lowing:

1           “(2) ASSET MANAGEMENT.—The term ‘asset  
2 management’ means a strategic and systematic pro-  
3 cess of operating, maintaining, and improving phys-  
4 ical assets, with a focus on both engineering and  
5 economic analysis based upon quality information, to  
6 identify a structured sequence of maintenance, re-  
7 pair, rehabilitation, and replacement actions that  
8 will achieve and sustain a desired state of good re-  
9 pair over the lifecycle of the assets at minimum  
10 practicable cost.”;

11           (4) in paragraph (4) (as redesignated by para-  
12 graph (2))—

13           (A) in the matter preceding subparagraph  
14 (A), by inserting “or any project eligible for as-  
15 sistance under this title” after “of a highway”;

16           (B) by striking subparagraph (A) and in-  
17 serting the following:

18           “(A) preliminary engineering, engineering,  
19 and design-related services directly relating to  
20 the construction of a highway project, including  
21 engineering, design, project development and  
22 management, construction project management  
23 and inspection, surveying, mapping (including  
24 the establishment of temporary and permanent  
25 geodetic control in accordance with specifica-

1 tions of the National Oceanic and Atmospheric  
 2 Administration), and architectural-related serv-  
 3 ices;”;

4 (C) in subparagraph (B)—

5 (i) by inserting “reconstruction,” be-  
 6 fore “resurfacing”; and

7 (ii) by striking “and rehabilitation”  
 8 and inserting “rehabilitation, and preserva-  
 9 tion”;

10 (D) in subparagraph (E) by striking “rail-  
 11 way” and inserting “railway-highway”; and

12 (E) in subparagraph (F) by striking “ob-  
 13 stacles” and inserting “hazards”.

14 (5) in paragraph (6) (as so redesignated)—

15 (A) by inserting “public” before “highway  
 16 eligible”; and

17 (B) by inserting “functionally” before  
 18 “classified”;

19 (6) by inserting after paragraph (6) (as so re-  
 20 designated) the following:

21 “(7) FEDERAL LANDS ACCESS TRANSPOR-  
 22 TATION FACILITY.—The term ‘Federal Lands access  
 23 transportation facility’ means a public highway,  
 24 road, bridge, trail, or transit system that is located  
 25 on, is adjacent to, or provides access to Federal

1 lands for which title or maintenance responsibility is  
2 vested in a State, county, town, township, tribal,  
3 municipal, or local government.

4 “(8) FEDERAL LANDS TRANSPORTATION FACIL-  
5 ITY.—The term ‘Federal lands transportation facil-  
6 ity’ means a public highway, road, bridge, trail, or  
7 transit system that is located on, is adjacent to, or  
8 provides access to Federal lands for which title and  
9 maintenance responsibility is vested in the Federal  
10 Government, and that appears on the national Fed-  
11 eral lands transportation facility inventory described  
12 in section 203(c).”;

13 (7) in paragraph (11)(B) by inserting “includ-  
14 ing public roads on dams” after “drainage struc-  
15 ture”;

16 (8) in paragraph (14) (as so redesignated)—

17 (A) by striking “as a” and inserting “as  
18 an air quality”; and

19 (B) by inserting “air quality” before “at-  
20 tainment area”;

21 (9) in paragraph (18) (as so redesignated) by  
22 striking “an undertaking to construct a particular  
23 portion of a highway, or if the context so implies,  
24 the particular portion of a highway so constructed or

1 any other undertaking” and inserting “any under-  
2 taking”;

3 (10) in paragraph (19) (as so redesignated)—

4 (A) by striking “the State transportation  
5 department and”; and

6 (B) by inserting “and the recipient” after  
7 “Secretary”;

8 (11) by striking paragraph (23) (as so redesign-  
9 nated) and inserting the following:

10 “(23) SAFETY IMPROVEMENT PROJECT.—The  
11 term ‘safety improvement project’ means a strategy,  
12 activity, or project on a public road that is con-  
13 sistent with the State strategic highway safety plan  
14 and corrects or improves a roadway feature that  
15 constitutes a hazard to road users or addresses a  
16 highway safety problem.”;

17 (12) by inserting after paragraph (26) (as so  
18 redesignated) the following:

19 “(27) STATE STRATEGIC HIGHWAY SAFETY  
20 PLAN.—The term ‘State strategic highway safety  
21 plan’ has the same meaning given such term in sec-  
22 tion 148(a).”;

23 (13) by striking paragraph (29) (as so redesign-  
24 nated) and inserting the following:

1           “(29) TRANSPORTATION ENHANCEMENT ACTIV-  
2           ITY.—The term ‘transportation enhancement activ-  
3           ity’ means any of the following activities when car-  
4           ried out as part of any program or project author-  
5           ized or funded under this title, or as an independent  
6           program or project related to surface transportation:

7                   “(A) Provision of facilities for pedestrians  
8                   and bicycles.

9                   “(B) Provision of safety and educational  
10                  activities for pedestrians and bicyclists.

11                  “(C) Acquisition of scenic easements and  
12                  scenic or historic sites.

13                  “(D) Scenic or historic highways and  
14                  bridges.

15                  “(E) Vegetation management practices in  
16                  transportation rights-of-way and other activities  
17                  eligible under section 319.

18                  “(F) Historic preservation, rehabilitation,  
19                  and operation of historic transportation build-  
20                  ings, structures, or facilities.

21                  “(G) Preservation of abandoned railway  
22                  corridors, including the conversion and use of  
23                  the corridors for pedestrian or bicycle trails.

24                  “(H) Inventory, control, and removal of  
25                  outdoor advertising.

1           “(I) Archaeological planning and research.

2           “(J) Any environmental mitigation activ-  
3           ity, including pollution prevention and pollution  
4           abatement activities and mitigation to—

5                   “(i) to address stormwater manage-  
6                   ment, control, and water pollution preven-  
7                   tion or abatement related to highway con-  
8                   struction or due to highway runoff, includ-  
9                   ing activities described in sections  
10                  133(b)(11), 328(a), and 329; or

11                   “(ii) reduce vehicle-caused wildlife  
12                   mortality or to restore and maintain  
13                   connectivity among terrestrial or aquatic  
14                   habitats.”; and

15           (14) by inserting after paragraph (29) (as so  
16           redesignated) the following:

17                   “(30) TRANSPORTATION SYSTEMS MANAGE-  
18                   MENT AND OPERATIONS.—

19                   “(A) IN GENERAL.—The term ‘transport-  
20                   ation systems management and operations’  
21                   means integrated strategies to optimize the per-  
22                   formance of existing infrastructure through the  
23                   implementation of multimodal and intermodal,  
24                   cross-jurisdictional systems, services, and  
25                   projects designed to preserve capacity and im-

1           prove security, safety, and reliability of the  
2           transportation system.

3           “(B) INCLUSIONS.—The term ‘transportation systems management and operations’ includes—

6                   “(i) actions such as traffic detection  
7                   and surveillance, corridor management,  
8                   freeway management, arterial management,  
9                   active transportation and demand  
10                  management, work zone management,  
11                  emergency management, traveler information services, congestion pricing, parking  
12                  management, automated enforcement, traffic control, commercial vehicle operations,  
13                  freight management, and coordination of  
14                  highway, rail, transit, bicycle, and pedestrian operations; and

18                  “(ii) coordination of the implementation of regional transportation system  
19                  management and operations investments  
20                  (such as traffic incident management, traveler information services, emergency management,  
21                  roadway weather management, intelligent transportation systems, communication networks, and information sharing



1 systems) requiring agreements, integration,  
2 and interoperability to achieve targeted  
3 system performance, reliability, safety, and  
4 customer service levels.

5 “(31) TRIBAL TRANSPORTATION FACILITY.—  
6 The term ‘tribal transportation facility’ means a  
7 public highway, road, bridge, trail, or transit system  
8 that is located on or provides access to tribal land  
9 and appears on the national tribal transportation fa-  
10 cility inventory described in section 202(b)(1).

11 “(32) TRUCK STOP ELECTRIFICATION SYS-  
12 TEM.—The term ‘truck stop electrification system’  
13 means a system that delivers heat, air conditioning,  
14 electricity, or communications to a heavy-duty vehi-  
15 cle.”.

16 (b) SENSE OF CONGRESS.—Section 101(c) of title  
17 23, United States Code, is amended by striking “system”  
18 and inserting “highway”.

19 **SEC. 1104. NATIONAL HIGHWAY SYSTEM.**

20 (a) IN GENERAL.—Section 103 of title 23, United  
21 States Code, is amended to read as follows:

22 **“§ 103. National highway system**

23 “(a) IN GENERAL.—For the purposes of this title,  
24 the Federal-aid system is the National Highway System,  
25 which includes the Interstate System.

1 “(b) NATIONAL HIGHWAY SYSTEM.—

2 “(1) DESCRIPTION.—The National Highway  
3 System consists of the highway routes and connec-  
4 tions to transportation facilities that shall—

5 “(A) serve major population centers, inter-  
6 national border crossings, ports, airports, public  
7 transportation facilities, and other intermodal  
8 transportation facilities and other major travel  
9 destinations;

10 “(B) meet national defense requirements;  
11 and

12 “(C) serve interstate and interregional  
13 travel and commerce.

14 “(2) COMPONENTS.—The National Highway  
15 System described in paragraph (1) consists of the  
16 following:

17 “(A) The National Highway System de-  
18 picted on the map submitted by the Secretary  
19 of Transportation to Congress with the report  
20 entitled ‘Pulling Together: The National High-  
21 way System and its Connections to Major Inter-  
22 modal Terminals’ and dated May 24, 1996, and  
23 modifications approved by the Secretary before  
24 the date of enactment of the MAP-21.

1           “(B) Other urban and rural principal arte-  
2           rial routes, and border crossings on those  
3           routes, that were not included on the National  
4           Highway System before the date of enactment  
5           of the MAP-21.

6           “(C) Other connector highways (including  
7           toll facilities) that provide motor vehicle access  
8           between arterial routes on the National High-  
9           way System and a major intermodal transpor-  
10          tation facility that was not included on the Na-  
11          tional Highway System before the date of en-  
12          actment of the MAP-21.

13          “(D) A strategic highway network that—

14               “(i) consists of a network of highways  
15               that are important to the United States  
16               strategic defense policy, that provide de-  
17               fense access, continuity, and emergency ca-  
18               pabilities for the movement of personnel,  
19               materials, and equipment in both peace-  
20               time and wartime, and that were not in-  
21               cluded on the National Highway System  
22               before the date of enactment of the MAP-  
23               21;

24               “(ii) may include highways on or off  
25               the Interstate System; and

1           “(iii) shall be designated by the Sec-  
2           retary, in consultation with appropriate  
3           Federal agencies and the States.

4           “(E) Major strategic highway network con-  
5           nectors that—

6                   “(i) consist of highways that provide  
7                   motor vehicle access between major mili-  
8                   tary installations and highways that are  
9                   part of the strategic highway network but  
10                  were not included on the National High-  
11                  way System before the date of enactment  
12                  of the MAP-21; and

13                   “(ii) shall be designated by the Sec-  
14                  retary, in consultation with appropriate  
15                  Federal agencies and the States.

16           “(3) MODIFICATIONS TO NHS.—

17                   “(A) IN GENERAL.—The Secretary may  
18                  make any modification, including any modifica-  
19                  tion consisting of a connector to a major inter-  
20                  modal terminal, to the National Highway Sys-  
21                  tem that is proposed by a State if the Secretary  
22                  determines that the modification—

23                   “(i) meets the criteria established for  
24                  the National Highway System under this

1 title after the date of enactment of the  
2 MAP-21; and

3 “(ii) enhances the national transpor-  
4 tation characteristics of the National High-  
5 way System.

6 “(B) COOPERATION.—

7 “(i) IN GENERAL.—In proposing a  
8 modification under this paragraph, a State  
9 shall cooperate with local and regional offi-  
10 cials.

11 “(ii) URBANIZED AREAS.—In an ur-  
12 banized area, the local officials shall act  
13 through the metropolitan planning organi-  
14 zation designated for the area under sec-  
15 tion 134.

16 “(c) INTERSTATE SYSTEM.—

17 “(1) DESCRIPTION.—

18 “(A) IN GENERAL.—The Dwight D. Eisen-  
19 hower National System of Interstate and De-  
20 fense Highways within the United States (in-  
21 cluding the District of Columbia and Puerto  
22 Rico) consists of highways designed, located,  
23 and selected in accordance with this paragraph.

24 “(B) DESIGN.—

1           “(i) IN GENERAL.—Except as pro-  
2           vided in clause (ii), highways on the Inter-  
3           state System shall be designed in accord-  
4           ance with the standards of section 109(b).

5           “(ii) EXCEPTION.—Highways on the  
6           Interstate System in Alaska and Puerto  
7           Rico shall be designed in accordance with  
8           such geometric and construction standards  
9           as are adequate for current and probable  
10          future traffic demands and the needs of  
11          the locality of the highway.

12          “(C) LOCATION.—Highways on the Inter-  
13          state System shall be located so as—

14               “(i) to connect by routes, as direct as  
15               practicable, the principal metropolitan  
16               areas, cities, and industrial centers;

17               “(ii) to serve the national defense; and

18               “(iii) to the maximum extent prac-  
19               ticable, to connect at suitable border points  
20               with routes of continental importance in  
21               Canada and Mexico.

22          “(D) SELECTION OF ROUTES.—To the  
23          maximum extent practicable, each route of the  
24          Interstate System shall be selected by joint ac-  
25          tion of the State transportation departments of

1 the State in which the route is located and the  
2 adjoining States, in cooperation with local and  
3 regional officials, and subject to the approval of  
4 the Secretary.

5 “(2) MAXIMUM MILEAGE.—The mileage of  
6 highways on the Interstate System shall not exceed  
7 43,000 miles, exclusive of designations under para-  
8 graph (4).

9 “(3) MODIFICATIONS.—The Secretary may ap-  
10 prove or require modifications to the Interstate Sys-  
11 tem in a manner consistent with the policies and  
12 procedures established under this subsection.

13 “(4) INTERSTATE SYSTEM DESIGNATIONS.—

14 “(A) ADDITIONS.—If the Secretary deter-  
15 mines that a highway on the National Highway  
16 System meets all standards of a highway on the  
17 Interstate System and that the highway is a  
18 logical addition or connection to the Interstate  
19 System, the Secretary may, upon the affirma-  
20 tive recommendation of the State or States in  
21 which the highway is located, designate the  
22 highway as a route on the Interstate System.

23 “(B) DESIGNATIONS AS FUTURE INTER-  
24 STATE SYSTEM ROUTES.—

1           “(i) IN GENERAL.—Subject to clauses  
2           (ii) through (vi), if the Secretary deter-  
3           mines that a highway on the National  
4           Highway System would be a logical addi-  
5           tion or connection to the Interstate System  
6           and would qualify for designation as a  
7           route on the Interstate System under sub-  
8           paragraph (A) if the highway met all  
9           standards of a highway on the Interstate  
10          System, the Secretary may, upon the af-  
11          firmative recommendation of the State or  
12          States in which the highway is located,  
13          designate the highway as a future Inter-  
14          state System route.

15          “(ii) WRITTEN AGREEMENT.—A des-  
16          ignation under clause (i) shall be made  
17          only upon the written agreement of each  
18          State described in that clause that the  
19          highway will be constructed to meet all  
20          standards of a highway on the Interstate  
21          System by not later than the date that is  
22          25 years after the date of the agreement.

23          “(iii) FAILURE TO COMPLETE CON-  
24          STRUCTION.—If a State described in clause  
25          (i) has not substantially completed the con-



1 construction of a highway designated under  
2 this subparagraph by the date specified in  
3 clause (ii), the Secretary shall remove the  
4 designation of the highway as a future  
5 Interstate System route.

6 “(iv) EFFECT OF REMOVAL.—Re-  
7 moval of the designation of a highway  
8 under clause (iii) shall not preclude the  
9 Secretary from designating the highway as  
10 a route on the Interstate System under  
11 subparagraph (A) or under any other pro-  
12 vision of law providing for addition to the  
13 Interstate System.

14 “(v) RETROACTIVE EFFECT.—An  
15 agreement described in clause (ii) that is  
16 entered into before August 10, 2005, shall  
17 be deemed to include the 25-year time lim-  
18 itation described in that clause, regardless  
19 of any earlier construction completion date  
20 in the agreement.

21 “(vi) REFERENCES.—No law, rule,  
22 regulation, map, document, or other record  
23 of the United States, or of any State or  
24 political subdivision of a State, shall refer  
25 to any highway designated as a future

1 Interstate System route under this sub-  
2 paragraph, and no such highway shall be  
3 signed or marked, as a highway on the  
4 Interstate System, until such time as the  
5 highway—

6 “(I) is constructed to the geo-  
7 metric and construction standards for  
8 the Interstate System; and

9 “(II) has been designated as a  
10 route on the Interstate System.

11 “(C) FINANCIAL RESPONSIBILITY.—Except  
12 as provided in this title, the designation of a  
13 highway under this paragraph shall create no  
14 additional Federal financial responsibility with  
15 respect to the highway.

16 “(5) EXEMPTION OF INTERSTATE SYSTEM.—

17 “(A) IN GENERAL.—Except as provided in  
18 subparagraph (B), the Interstate System shall  
19 not be considered to be a historic site under  
20 section 303 of title 49 or section 138 of this  
21 title, regardless of whether the Interstate Sys-  
22 tem or portions or elements of the Interstate  
23 System are listed on, or eligible for listing on,  
24 the National Register of Historic Places.

1           “(B) INDIVIDUAL ELEMENTS.—Subject to  
2           subparagraph (C)—

3           “(i) the Secretary shall determine,  
4           through the administrative process estab-  
5           lished for exempting the Interstate System  
6           from section 106 of the National Historic  
7           Preservation Act (16 U.S.C. 470f), those  
8           individual elements of the Interstate Sys-  
9           tem that possess national or exceptional  
10          historic significance (such as a historic  
11          bridge or a highly significant engineering  
12          feature); and

13          “(ii) those elements shall be consid-  
14          ered to be historic sites under section 303  
15          of title 49 or section 138 of this title, as  
16          applicable.

17          “(C) CONSTRUCTION, MAINTENANCE, RES-  
18          Toration, AND REHABILITATION ACTIVITIES.—  
19          Subparagraph (B) does not prohibit a State  
20          from carrying out construction, maintenance,  
21          restoration, or rehabilitation activities for a por-  
22          tion of the Interstate System referred to in sub-  
23          paragraph (B) upon compliance with section  
24          303 of title 49 or section 138 of this title, as

1 applicable, and section 106 of the National His-  
2 toric Preservation Act (16 U.S.C. 470f).

3 “(d) OPERATION OF CONVENTIONAL COMBINATION  
4 VEHICLES ON THE NATIONAL HIGHWAY SYSTEM.—

5 “(1) DEFINITION OF CONVENTIONAL COMBINA-  
6 TION VEHICLES.—In this subsection, the term ‘con-  
7 ventional combination vehicles’ means—

8 “(A) truck-tractor or semi-trailer combina-  
9 tions with semi-trailers up to 53 feet in length  
10 and 102 inches in width;

11 “(B) truck-tractor, semi-trailer, or trailer  
12 combinations with each semi-trailer and trailer  
13 up to 28.5 feet in length and 102 inches in  
14 width; and

15 “(C) drive-away saddlemount combina-  
16 tions, not to exceed 97 feet in overall length,  
17 with up to 3 truck tractors, with or without a  
18 full mount, towed by a truck tractor.

19 “(2) NATIONAL NETWORK.—The National Net-  
20 work designated under the Surface Transportation  
21 Assistance Act of 1982 (Public Law 97–424; 96  
22 Stat. 2119) is repealed.

23 “(3) OPERATION OF CONVENTIONAL COMBINA-  
24 TION VEHICLES.—

1           “(A) REQUIREMENT.—Conventional com-  
2           bination vehicles shall be permitted to operate  
3           in all States on all segments of the National  
4           Highway System other than segments—

5                   “(i) that were open to traffic on the  
6                   date of enactment of the MAP-21; and

7                   “(ii) on which all nonpassenger com-  
8                   mercial motor vehicles are banned on the  
9                   date of enactment of the MAP-21.

10           “(B) RESTRICTIONS.—A State may re-  
11           quest temporary or permanent restrictions on  
12           the operation of conventional combination vehi-  
13           cles, subject to approval by the Secretary, based  
14           on safety considerations, geometric constraints,  
15           work zones, weather, or traffic management re-  
16           quirements of special events or emergencies.

17           “(C) REASONABLE ACCESS.—Conventional  
18           combination vehicles shall be given reasonable  
19           access, by the most reasonable, practicable, and  
20           safe route available, subject to review by the  
21           Secretary—

22                   “(i) between the National Highway  
23                   System and facilities for food, fuel, and  
24                   rest within 1 mile of the National Highway  
25                   System; and

1                   “(ii) to terminal locations for the un-  
2                   loading and loading of cargo.”.

3           (b) CONFORMING AMENDMENTS.—

4           (1) ANALYSIS.—The analysis for chapter 1 of  
5           title 23, United States Code, is amended by striking  
6           the item relating to section 103 and inserting the  
7           following:

“103. National highway system.”.

8           (2) SECTION 113.—Section 113 of title 23,  
9           United States Code, is amended—

10           (A) in subsection (a) by striking “the Fed-  
11           eral-aid systems” and inserting “Federal-aid  
12           highways”; and

13           (B) in subsection (b), in the first sentence,  
14           by striking “of the Federal-aid systems” and  
15           inserting “Federal-aid highway”.

16           (3) SECTION 123.—Section 123(a) of title 23,  
17           United States Code, is amended in the first sentence  
18           by striking “Federal-aid system” and inserting  
19           “Federal-aid highway”.

20           (4) SECTION 217.—Section 217(b) of title 23,  
21           United States Code, is amended in the subsection  
22           heading by striking “NATIONAL HIGHWAY SYSTEM”  
23           and inserting “NATIONAL HIGHWAY PERFORMANCE  
24           PROGRAM”.

1           (5) SECTION 304.—Section 304 of title 23,  
2           United States Code, is amended in the first sentence  
3           by striking “the Federal-aid highway systems” and  
4           inserting “Federal-aid highways”.

5           (6) SECTION 317.—Section 317(d) of title 23,  
6           United States Code is amended by striking “system”  
7           and inserting “highway”.

8   **SEC. 1105. APPORTIONMENT.**

9           (a) IN GENERAL.—Section 104 of title 23, United  
10          States Code, is amended to read as follows:

11       **“§ 104. Apportionment**

12       “(a) ADMINISTRATIVE EXPENSES.—

13           “(1) IN GENERAL.—There are authorized to be  
14           appropriated from the Highway Trust Fund (other  
15           than the Mass Transit Account) to be made avail-  
16           able to the Secretary for administrative expenses of  
17           the Federal Highway Administration \$480,000,000  
18           for each of fiscal years 2012 and 2013.

19           “(2) PURPOSES.—The amounts authorized to  
20           be appropriated by this subsection shall be used—

21           “(A) to administer the provisions of law to  
22           be funded from appropriations for the Federal-  
23           aid highway program and programs authorized  
24           under chapter 2;

1           “(B) to make transfers of such sums as  
2           the Secretary determines to be appropriate to  
3           the Appalachian Regional Commission for ad-  
4           ministrative activities associated with the Appa-  
5           lachian development highway system; and

6           “(C) to reimburse, as appropriate, the Of-  
7           fice of Inspector General of the Department of  
8           Transportation for the conduct of annual audits  
9           of financial statements in accordance with sec-  
10          tion 3521 of title 31.

11          “(3) AVAILABILITY.—The amounts made avail-  
12          able under paragraph (1) shall remain available until  
13          expended.

14          “(b) DIVISION OF STATE APPORTIONMENTS AMONG  
15          PROGRAMS.—The Secretary shall distribute the amount  
16          apportioned to a State for a fiscal year under subsection  
17          (c) among the national highway performance program, the  
18          transportation mobility program, the highway safety im-  
19          provement program, the congestion mitigation and air  
20          quality improvement program, and the national freight  
21          program, and to carry out section 134 as follows:

22          “(1) NATIONAL HIGHWAY PERFORMANCE PRO-  
23          GRAM.—For the national highway performance pro-  
24          gram, 58 percent of the amount remaining after dis-  
25          tributing amounts under paragraphs (4) and (6).



1           “(2) TRANSPORTATION MOBILITY PROGRAM.—  
2           For the transportation mobility program, 29.3 per-  
3           cent of the amount remaining after distributing  
4           amounts under paragraphs (4) and (6).

5           “(3) HIGHWAY SAFETY IMPROVEMENT PRO-  
6           GRAM.—For the highway safety improvement pro-  
7           gram, 7 percent of the amount remaining after dis-  
8           tributing amounts under paragraphs (4) and (6).

9           “(4) CONGESTION MITIGATION AND AIR QUAL-  
10          ITY IMPROVEMENT PROGRAM.—For the congestion  
11          mitigation and air quality improvement program, an  
12          amount determined by multiplying the amount de-  
13          termined for the State under subsection (c) by the  
14          proportion that—

15                 “(A) the amount apportioned to the State  
16                 for the congestion mitigation and air quality  
17                 improvement program for fiscal year 2009, plus  
18                 10 percent of the amount apportioned to the  
19                 State for the surface transportation program  
20                 for that fiscal year; bears to

21                 “(B) the total amount of funds appor-  
22                 tioned to the State for that fiscal year for the  
23                 programs referred to in section 105(a)(2) (ex-  
24                 cept for the high priority projects program re-  
25                 ferred to in section 105(a)(2)(H)), as in effect

1           on the day before the date of enactment of the  
2           MAP-21.

3           “(5) NATIONAL FREIGHT PROGRAM.—For the  
4           national freight program, 5.7 percent of the amount  
5           remaining after distributing amounts under para-  
6           graphs (4) and (6).

7           “(6) METROPOLITAN PLANNING.—To carry out  
8           section 134, an amount determined by multiplying  
9           the amount determined for the State under sub-  
10          section (c) by the proportion that—

11                 “(A) the amount apportioned to the State  
12                 to carry out section 134 for fiscal year 2009;  
13                 bears to

14                 “(B) the total amount of funds appor-  
15                 tioned to the State for that fiscal year for the  
16                 programs referred to in section 105(a)(2) (ex-  
17                 cept for the high priority projects program re-  
18                 ferred to in section 105(a)(2)(H)), as in effect  
19                 on the day before the date of enactment of the  
20                 MAP-21.

21          “(c) CALCULATION OF STATE AMOUNTS.—

22                 “(1) STATE SHARE.—The amount for each  
23                 State of combined apportionments for the national  
24                 highway performance program under section 119,  
25                 the transportation mobility program under section

1 133, the highway safety improvement program  
2 under section 148, the congestion mitigation and air  
3 quality improvement program under section 149, the  
4 national freight program under section 167, and to  
5 carry out section 134 shall be determined as follows:

6 “(A) INITIAL AMOUNT.—The initial  
7 amount for each State shall be determined by  
8 multiplying the total amount available for ap-  
9 portionment by the share for each State which  
10 shall be equal to the proportion that—

11 “(i) the amount of apportionments  
12 and allocations that the State received for  
13 fiscal years 2005 through 2009; bears to

14 “(ii) the amount of those apportion-  
15 ments and allocations received by all  
16 States for those fiscal years.

17 “(B) ADJUSTMENTS TO AMOUNTS.—The  
18 initial amounts resulting from the calculation  
19 under subparagraph (A) shall be adjusted to  
20 ensure that, for each State, the amount of com-  
21 bined apportionments for the programs shall  
22 not be less than 95 percent of the estimated tax  
23 payments attributable to highway users in the  
24 State paid into the Highway Trust Fund (other

1 than the Mass Transit Account) in the most re-  
2 cent fiscal year for which data are available.

3 “(2) STATE APPORTIONMENT.—On October 1  
4 of each fiscal year, the Secretary shall apportion the  
5 sum authorized to be appropriated for expenditure  
6 on the national highway performance program under  
7 section 119, the transportation mobility program  
8 under section 133, the highway safety improvement  
9 program under section 148, the congestion mitiga-  
10 tion and air quality improvement program under  
11 section 149, the national freight program under sec-  
12 tion 167, and to carry out section 134 in accordance  
13 with paragraph (1).

14 “(d) METROPOLITAN PLANNING.—

15 “(1) USE OF AMOUNTS.—

16 “(A) USE.—

17 “(i) IN GENERAL.—Except as pro-  
18 vided in clause (ii), the amounts appor-  
19 tioned to a State under subsection (b)(6)  
20 shall be made available by the State to the  
21 metropolitan planning organizations re-  
22 sponsible for carrying out section 134 in  
23 the State.

24 “(ii) STATES RECEIVING MINIMUM AP-  
25 PORTIONMENT.—A State that received the

1 minimum apportionment for use in car-  
2 rying out section 134 for fiscal year 2009  
3 may, subject to the approval of the Sec-  
4 retary, use the funds apportioned under  
5 subsection (b)(6) to fund transportation  
6 planning outside of urbanized areas.

7 “(B) UNUSED FUNDS.—Any funds that  
8 are not used to carry out section 134 may be  
9 made available by a metropolitan planning or-  
10 ganization to the State to fund activities under  
11 section 135.

12 “(2) DISTRIBUTION OF AMOUNTS WITHIN  
13 STATES.—

14 “(A) IN GENERAL.—The distribution with-  
15 in any State of the planning funds made avail-  
16 able to organizations under paragraph (1) shall  
17 be in accordance with a formula that—

18 “(i) is developed by each State and  
19 approved by the Secretary; and

20 “(ii) takes into consideration, at a  
21 minimum, population, status of planning,  
22 attainment of air quality standards, metro-  
23 politan area transportation needs, and  
24 other factors necessary to provide for an  
25 appropriate distribution of funds to carry

1 out section 134 and other applicable re-  
2 quirements of Federal law.

3 “(B) REIMBURSEMENT.—Not later than  
4 10 days after the date of receipt by a State of  
5 a request for reimbursement of expenditures  
6 made by a metropolitan planning organization  
7 for carrying out section 134, the State shall re-  
8 imburse, from amounts distributed under this  
9 paragraph to the metropolitan planning organi-  
10 zation by the State, the metropolitan planning  
11 organization for those expenditures.

12 “(3) DETERMINATION OF POPULATION FIG-  
13 URES.—For the purpose of determining population  
14 figures under this subsection, the Secretary shall use  
15 the latest available data from the decennial census  
16 conducted under section 141(a) of title 13, United  
17 States Code.

18 “(e) CERTIFICATION OF APPORTIONMENTS.—

19 “(1) IN GENERAL.—The Secretary shall—

20 “(A) on October 1 of each fiscal year, cer-  
21 tify to each of the State transportation depart-  
22 ments the amount that has been apportioned to  
23 the State under this section for the fiscal year;  
24 and

1           “(B) to permit the States to develop ade-  
2           quate plans for the use of amounts apportioned  
3           under this section, advise each State of the  
4           amount that will be apportioned to the State  
5           under this section for a fiscal year not later  
6           than 90 days before the beginning of the fiscal  
7           year for which the sums to be apportioned are  
8           authorized.

9           “(2) NOTICE TO STATES.—If the Secretary has  
10          not made an apportionment under this section for a  
11          fiscal year beginning after September 30, 1998, by  
12          not later than the date that is the twenty-first day  
13          of that fiscal year, the Secretary shall submit, by not  
14          later than that date, to the Committee on Transpor-  
15          tation and Infrastructure of the House of Represent-  
16          atives and the Committee on Environment and Pub-  
17          lic Works of the Senate, a written statement of the  
18          reason for not making the apportionment in a timely  
19          manner.

20          “(3) APPORTIONMENT CALCULATIONS.—

21                 “(A) IN GENERAL.—The calculation of of-  
22                 ficial apportionments of funds to the States  
23                 under this title is a primary responsibility of  
24                 the Department and shall be carried out only

1 by employees (and not contractors) of the De-  
2 partment.

3 “(B) PROHIBITION ON USE OF FUNDS TO  
4 HIRE CONTRACTORS.—None of the funds made  
5 available under this title shall be used to hire  
6 contractors to calculate the apportionments of  
7 funds to States.

8 “(f) TRANSFER OF HIGHWAY AND TRANSIT  
9 FUNDS.—

10 “(1) TRANSFER OF HIGHWAY FUNDS FOR  
11 TRANSIT PROJECTS.—

12 “(A) IN GENERAL.—Subject to subpara-  
13 graph (B), amounts made available for transit  
14 projects or transportation planning under this  
15 title may be transferred to and administered by  
16 the Secretary in accordance with chapter 53 of  
17 title 49.

18 “(B) NON-FEDERAL SHARE.—The provi-  
19 sions of this title relating to the non-Federal  
20 share shall apply to the amounts transferred  
21 under subparagraph (A).

22 “(2) TRANSFER OF TRANSIT FUNDS FOR HIGH-  
23 WAY PROJECTS.—

24 “(A) IN GENERAL.—Subject to subpara-  
25 graph (B), amounts made available for highway



1 projects or transportation planning under chap-  
2 ter 53 of title 49 may be transferred to and ad-  
3 ministered by the Secretary in accordance with  
4 this title.

5 “(B) NON-FEDERAL SHARE.—The provi-  
6 sions of chapter 53 of title 49 relating to the  
7 non-Federal share shall apply to amounts trans-  
8 ferred under subparagraph (A).

9 “(3) TRANSFER OF FUNDS AMONG STATES OR  
10 TO FEDERAL HIGHWAY ADMINISTRATION.—

11 “(A) IN GENERAL.—Subject to subpara-  
12 graph (B), the Secretary may, at the request of  
13 a State, transfer amounts apportioned or allo-  
14 cated under this title to the State to another  
15 State, or to the Federal Highway Administra-  
16 tion, for the purpose of funding 1 or more  
17 projects that are eligible for assistance with  
18 amounts so apportioned or allocated.

19 “(B) APPORTIONMENT.—The transfer  
20 shall have no effect on any apportionment of  
21 amounts to a State under this section.

22 “(C) FUNDS SUBALLOCATED TO URBAN-  
23 IZED AREAS.—Amounts that are apportioned or  
24 allocated to a State under subsection (b)(3) (as  
25 in effect on the day before the date of enact-

1           ment of the MAP-21) or subsection (b)(2) and  
 2           attributed to an urbanized area of a State with  
 3           a population of more than 200,000 individuals  
 4           under section 133(d) may be transferred under  
 5           this paragraph only if the metropolitan plan-  
 6           ning organization designated for the area con-  
 7           curs, in writing, with the transfer request.

8           “(4) TRANSFER OF OBLIGATION AUTHORITY.—

9           Obligation authority for amounts transferred under  
 10          this subsection shall be transferred in the same  
 11          manner and amount as the amounts for the projects  
 12          that are transferred under this subsection.”.

13          (b) CONFORMING AMENDMENT.—Section 146(a) of  
 14          title 23, United States Code, is amended by striking “sec-  
 15          tions 104(b)(1) and 104(b)(3)” and inserting “section  
 16          104(b)(2)”.

17          **SEC. 1106. NATIONAL HIGHWAY PERFORMANCE PROGRAM.**

18          (a) IN GENERAL.—Section 119 of title 23, United  
 19          States Code, is amended to read as follows:

20          **“§ 119. National highway performance program**

21                 “(a) ESTABLISHMENT.—The Secretary shall estab-  
 22          lish and implement a national highway performance pro-  
 23          gram under this section.

24                 “(b) PURPOSES.—The purposes of the national high-  
 25          way performance program shall be—

1           “(1) to provide support for the condition and  
2 performance of the National Highway System; and

3           “(2) to ensure that investments of Federal-aid  
4 funds in highway infrastructure are directed to  
5 achievement of established national performance  
6 goals for infrastructure condition and performance.

7           “(c) ELIGIBLE FACILITIES.—Except as provided in  
8 subsection (d), to be eligible for funding apportioned  
9 under section 104(b)(1) to carry out this section, a facility  
10 shall be located on the National Highway System, as de-  
11 fined in section 103.

12           “(d) ELIGIBLE PROJECTS.—Funds apportioned to a  
13 State to carry out the national highway performance pro-  
14 gram may be obligated only for a project on an eligible  
15 facility that is—

16           “(1) a project, or is part of a program of  
17 projects, supporting progress toward the achieve-  
18 ment of national performance goals for improving  
19 infrastructure condition, safety, mobility, or freight  
20 movement on the National Highway System and  
21 consistent with sections 134 and 135; and

22           “(2) for 1 or more of the following purposes:

23           “(A) Construction, reconstruction, resur-  
24 facing, restoration, rehabilitation, preservation,

1 or operational improvement of segments of the  
2 National Highway System.

3 “(B) Construction, replacement (including  
4 replacement with fill material), rehabilitation,  
5 preservation, and protection (including scour  
6 countermeasures, seismic retrofits, impact pro-  
7 tection measures, security countermeasures,  
8 and protection against extreme events) of  
9 bridges on the National Highway System.

10 “(C) Construction, replacement (including  
11 replacement with fill material), rehabilitation,  
12 preservation, and protection (including impact  
13 protection measures, security countermeasures,  
14 and protection against extreme events) of tun-  
15 nels on the National Highway System.

16 “(D) Inspection and evaluation, as de-  
17 scribed in section 144, of bridges and tunnels  
18 on the National Highway System, and inspec-  
19 tion and evaluation of other highway infrastruc-  
20 ture assets on the National Highway System,  
21 including signs and sign structures, earth re-  
22 taining walls, and drainage structures.

23 “(E) Training of bridge and tunnel inspec-  
24 tors, as described in section 144.

1           “(F) Construction, rehabilitation, or re-  
2           placement of existing ferry boats and ferry boat  
3           facilities, including approaches, that connect  
4           road segments of the National Highway Sys-  
5           tem.

6           “(G) Construction, reconstruction, resur-  
7           facing, restoration, rehabilitation, and preserva-  
8           tion of, and operational improvements for, a  
9           Federal-aid highway not on the National High-  
10          way System, and construction of a transit  
11          project eligible for assistance under chapter 53  
12          of title 49, if—

13               “(i) the highway project or transit  
14               project is in the same corridor as, and in  
15               proximity to, a fully access-controlled high-  
16               way designated as a part of the National  
17               Highway System;

18               “(ii) the construction or improvements  
19               will enhance the level of service on the fully  
20               access-controlled highway described in  
21               clause (i) and improve regional traffic flow;  
22               and

23               “(iii) the construction or improve-  
24               ments are more cost-effective, as deter-  
25               mined by benefit-cost analysis, than an im-

1           provement to the fully access-controlled  
2           highway described in clause (i).

3           “(H) Bicycle transportation and pedestrian  
4           walkways in accordance with section 217.

5           “(I) Highway safety improvements for seg-  
6           ments of the National Highway System.

7           “(J) Capital and operating costs for traffic  
8           and traveler information monitoring, manage-  
9           ment, and control facilities and programs.

10          “(K) Development and implementation of  
11          a State asset management plan for the National  
12          Highway System in accordance with this sec-  
13          tion, including data collection, maintenance,  
14          and integration and the cost associated with ob-  
15          taining, updating, and licensing software and  
16          equipment required for risk-based asset man-  
17          agement and performance-based management.

18          “(L) Infrastructure-based intelligent trans-  
19          portation systems capital improvements.

20          “(M) Environmental restoration and pollu-  
21          tion abatement in accordance with section 328.

22          “(N) Control of noxious weeds and aquatic  
23          noxious weeds and establishment of native spe-  
24          cies in accordance with section 329.

1           “(O) In accordance with all applicable  
2 Federal law (including regulations), participa-  
3 tion in natural habitat and wetlands mitigation  
4 efforts relating to projects funded under this  
5 title, which may include participation in natural  
6 habitat and wetlands mitigation banks, con-  
7 tributions to statewide and regional efforts to  
8 conserve, restore, enhance, and create natural  
9 habitats and wetlands, and development of  
10 statewide and regional natural habitat and wet-  
11 lands conservation and mitigation plans, includ-  
12 ing any such banks, efforts, and plans devel-  
13 oped in accordance with applicable Federal law  
14 (including regulations), on the conditions  
15 that—

16                   “(i) contributions to those mitigation  
17 efforts may—

18                           “(I) take place concurrent with  
19 or in advance of project construction;  
20 and

21                           “(II) occur in advance of project  
22 construction only if the efforts are  
23 consistent with all applicable require-  
24 ments of Federal law (including regu-

1                   lations) and State transportation  
2                   planning processes; and

3                   “(ii) with respect to participation in a  
4                   natural habitat or wetland mitigation ef-  
5                   fort relating to a project funded under this  
6                   title that has an impact that occurs within  
7                   the service area of a mitigation bank, pref-  
8                   erence is given, to the maximum extent  
9                   practicable, to the use of the mitigation  
10                  bank if the bank contains sufficient avail-  
11                  able credits to offset the impact and the  
12                  bank is approved in accordance with appli-  
13                  cable Federal law (including regulations).

14               “(e) LIMITATION ON NEW CAPACITY.—

15               “(1) IN GENERAL.—Except as provided in para-  
16               graph (2), the maximum amount that a State may  
17               obligate under this section for projects under sub-  
18               section (d)(2)(G) and that is attributable to the por-  
19               tion of the cost of any project undertaken to expand  
20               the capacity of eligible facilities on the National  
21               Highway System, in a case in which the new capac-  
22               ity consists of 1 or more new travel lanes that are  
23               not high-occupancy vehicle lanes, shall not, in total,  
24               exceed 40 percent of the combined apportionments



1 of a State under section 104(b)(1) for the most re-  
2 cent 3 consecutive fiscal years.

3 “(2) EXCEPTION.—Paragraph (1) shall not  
4 apply to a project for the construction of auxiliary  
5 lanes or widening of a bridge during rehabilitation  
6 or replacement to meet current geometric, construc-  
7 tion, and structural standards for the types and vol-  
8 umes of projected traffic over the design life of the  
9 project.

10 “(f) STATE PERFORMANCE MANAGEMENT.—

11 “(1) IN GENERAL.—A State shall develop a  
12 risk-based asset management plan for the National  
13 Highway System based on a process defined by the  
14 Secretary to guide effective investment decisions to  
15 improve or preserve asset condition and system per-  
16 formance.

17 “(2) PERFORMANCE DRIVEN PLAN.—A State  
18 asset management plan shall include strategies lead-  
19 ing to a program of projects that would make  
20 progress toward achievement of the State targets for  
21 asset condition and performance of the National  
22 Highway System in accordance with paragraph (5)  
23 and, to the maximum extent practicable, reflect the  
24 national goals identified in section 150.

1           “(3) PLAN CONTENTS.—A State asset manage-  
2           ment plan shall, at a minimum, be in a form that  
3           the Secretary determines to be appropriate and in-  
4           clude—

5                   “(A) a summary listing of the highway in-  
6                   frastructure assets on the National Highway  
7                   System in the State, including a description of  
8                   the condition of those assets;

9                   “(B) asset management objectives and  
10                  measures;

11                  “(C) performance gap identification;

12                  “(D) lifecycle cost and risk management  
13                  analysis;

14                  “(E) a financial plan; and

15                  “(F) investment strategies.

16           “(4) STANDARDS AND MEASURES.—Not later  
17           than 18 months after the date of enactment of the  
18           MAP–21, the Secretary shall, by regulation and in  
19           consultation with State departments of transpor-  
20           tation and other stakeholders, establish—

21                   “(A) minimum standards for States to use  
22                   in developing and operating pavement manage-  
23                   ment systems and bridge management systems;

24                   “(B) measures for States to use to as-  
25                   sess—

1                   “(i) the condition of pavements on the  
2 Interstate system;

3                   “(ii) the condition of pavements on  
4 the National Highway System (excluding  
5 the Interstate);

6                   “(iii) the condition of bridges on the  
7 National Highway System;

8                   “(iv) the performance of the Inter-  
9 state System; and

10                   “(v) the performance of the National  
11 Highway System (excluding the Interstate  
12 System);

13                   “(C) the data elements that are necessary  
14 to collect and maintain data, and a standard-  
15 ized process for collection and sharing of data  
16 with appropriate governmental entities at the  
17 Federal, State, and local levels (including met-  
18 ropolitan planning organizations), to carry out  
19 paragraph (5); and

20                   “(D) minimum levels for—

21                   “(i) the condition of pavement on the  
22 Interstate System; and

23                   “(ii) the condition of bridges on the  
24 National Highway System.

25                   “(5) STATE PERFORMANCE TARGETS.—

1           “(A) ESTABLISHMENT OF TARGETS.—Not  
2 later than 1 year after the date on which the  
3 Secretary promulgates regulations under para-  
4 graph (4), each State, in consultation with met-  
5 ropolitan planning organizations, shall establish  
6 targets that address each of the performance  
7 measures identified in paragraph (4)(B).

8           “(B) PERIODIC UPDATES.—Each State  
9 shall periodically update the targets established  
10 under subparagraph (A).

11          “(6) REQUIREMENT FOR PLAN.—To obligate  
12 funding apportioned under section 104(b)(1), each  
13 State shall have in effect—

14           “(A) a risk-based asset management plan  
15 for the National Highway System in accordance  
16 with this section, developed through a process  
17 defined and approved by the Secretary; and

18           “(B) State targets that address the per-  
19 formance measures identified in paragraph  
20 (4)(B).

21          “(7) CERTIFICATION OF PLAN DEVELOPMENT  
22 PROCESS.—

23           “(A) IN GENERAL.—Not later than 90  
24 days after the date on which a State submits a  
25 request for approval of the process used by the

1 State to develop the State asset management  
2 plan for the National Highway System, the Sec-  
3 retary shall—

4 “(i) review the process; and

5 “(ii)(I) certify that the process meets  
6 the requirements established by the Sec-  
7 retary; or

8 “(II) deny certification and specify ac-  
9 tions necessary for the State to take to  
10 correct deficiencies in the State process.

11 “(B) RECERTIFICATION.—Not less often  
12 than every 4 years, the Secretary shall review  
13 and recertify that the process used by a State  
14 to develop and maintain the State asset man-  
15 agement plan for the National Highway System  
16 meets the requirements for the process, as es-  
17 tablished by the Secretary.

18 “(8) PERFORMANCE REPORTS.—

19 “(A) IN GENERAL.—Not later than 4 years  
20 after the date of enactment of the MAP-21 and  
21 biennially thereafter, a State shall submit to the  
22 Secretary a report that describes—

23 “(i) the condition and performance of  
24 the National Highway System in the State;

1           “(ii) progress in achieving State tar-  
2           gets for each of the performance measures  
3           for the National Highway System; and

4           “(iii) the effectiveness of the invest-  
5           ment strategy documented in the State  
6           asset management plan for the National  
7           Highway System.

8           “(B) FAILURE TO ACHIEVE TARGETS.—A  
9           State that does not achieve or make significant  
10          progress toward achieving the targets of the  
11          State for performance measures described in  
12          subparagraph (A)(ii) for 2 consecutive reports  
13          submitted under this paragraph shall include in  
14          the next report submitted a description of the  
15          actions the State will undertake to achieve the  
16          targets.

17          “(g) INTERSTATE SYSTEM AND NHS BRIDGE CON-  
18          DITIONS.—

19                 “(1) CONDITION OF INTERSTATE SYSTEM.—

20                 “(A) PENALTY.—If, during 2 consecutive  
21                 reporting periods, the condition of the Inter-  
22                 state System in a State falls below the min-  
23                 imum condition level established by the Sec-  
24                 retary under subsection (f)(4)(D), the State

1 shall be required, during the following fiscal  
2 year—

3 “(i) to obligate, from the amounts ap-  
4 portioned to the State under section  
5 104(b)(1), an amount that is not less than  
6 the amount of funds apportioned to the  
7 State for fiscal year 2009 under the Inter-  
8 state maintenance program for the pur-  
9 poses described in this section (as in effect  
10 on the day before the date of enactment of  
11 the MAP-21), except that the amount re-  
12 served under this clause shall be increased  
13 by 2 percent over the amount reserved in  
14 the previous fiscal year for each year after  
15 fiscal year 2013; and

16 “(ii) to transfer, from the amounts  
17 apportioned to the State under section  
18 104(b)(2) to the apportionment of the  
19 State under section 104(b)(1), an amount  
20 equal to 10 percent of the amount of funds  
21 apportioned to the State for fiscal year  
22 2009 under the Interstate maintenance  
23 program for the purposes described in this  
24 section (as in effect on the day before the  
25 date of enactment of the MAP-21).

1           “(B) RESTORATION.—The obligation re-  
2           quirement for the Interstate System in a State  
3           required by subparagraph (A) for a fiscal year  
4           shall remain in effect for each subsequent fiscal  
5           year until such time as the condition of the  
6           Interstate System in the State exceeds the min-  
7           imum condition level established by the Sec-  
8           retary.

9           “(2) CONDITION OF NHS BRIDGES.—

10           “(A) PENALTY.—If, during 2 consecutive  
11           reporting periods, the condition of bridges on  
12           the National Highway System in a State falls  
13           below the minimum condition level established  
14           by the Secretary under subsection (f)(4)(D), the  
15           State shall be required, during the following fis-  
16           cal year—

17           “(i) to obligate, from the amounts ap-  
18           portioned to the State under section  
19           104(b)(1), an amount for bridges on the  
20           National Highway System that is not less  
21           than 50 percent of the amount of funds  
22           apportioned to the State for fiscal year  
23           2009 under the highway bridge program  
24           for the purposes described in section 144  
25           (as in effect on the day before the date of



1 enactment of the MAP–21), except that  
2 the amount reserved under this clause  
3 shall be increased by 2 percent over the  
4 amount reserved in the previous fiscal year  
5 for each year after fiscal year 2013; and

6 “(ii) to transfer, from the amounts  
7 apportioned to the State under section  
8 104(b)(2) to the apportionment of the  
9 State under section 104(b)(1), an amount  
10 equal to 10 percent of the amount of funds  
11 apportioned to the State for fiscal year  
12 2009 under the highway bridge program  
13 for the purposes described in section 144  
14 (as in effect on the day before the date of  
15 enactment of the MAP–21).

16 “(B) RESTORATION.—The obligation re-  
17 quirement for bridges on the National Highway  
18 System in a State required by subparagraph  
19 (A) for a fiscal year shall remain in effect for  
20 each subsequent fiscal year until such time as  
21 the condition of bridges on the National High-  
22 way System in the State exceeds the minimum  
23 condition level established by the Secretary.”.

24 (b) TRANSITION PERIOD.—

1           (1) IN GENERAL.—Except as provided in para-  
2           graph (2), until such date as a State has in effect  
3           an approved asset management plan and has estab-  
4           lished performance targets as described in section  
5           119 of title 23, United States Code, that will con-  
6           tribute to achieving the national goals for the condi-  
7           tion and performance of the National Highway Sys-  
8           tem, but not later than 15 months after the date on  
9           which the Secretary promulgates regulations re-  
10          quired under section 119(f)(4) of that title, the Sec-  
11          retary shall approve obligations of funds apportioned  
12          to a State to carry out the national highway per-  
13          formance program under section 119 of that title,  
14          for projects that otherwise meet the requirements of  
15          that section.

16          (2) EXTENSION.—The Secretary may extend  
17          the transition period for a State under paragraph  
18          (1) if the Secretary determines that the State has  
19          made a good faith effort to establish an asset man-  
20          agement plan and performance targets referred to in  
21          that paragraph.

22          (c) CONFORMING AMENDMENT.—The analysis for  
23          chapter 1 of title 23, United States Code, is amended by  
24          striking the item relating to section 119 and inserting the  
25          following:

“119. National highway performance program.”.

1 **SEC. 1107. EMERGENCY RELIEF.**

2 Section 125 of title 23, United States Code, is  
3 amended to read as follows:

4 **“§ 125. Emergency relief**

5 “(a) IN GENERAL.—Subject to this section and sec-  
6 tion 120, an emergency fund is authorized for expenditure  
7 by the Secretary for the repair or reconstruction of high-  
8 ways, roads, and trails, in any area of the United States,  
9 including Indian reservations, that the Secretary finds  
10 have suffered serious damage as a result of—

11 “(1) a natural disaster over a wide area, such  
12 as by a flood, hurricane, tidal wave, earthquake, se-  
13 vere storm, or landslide; or

14 “(2) catastrophic failure from any external  
15 cause.

16 “(b) RESTRICTION ON ELIGIBILITY.—

17 “(1) DEFINITION OF CONSTRUCTION PHASE.—  
18 In this subsection, the term ‘construction phase’  
19 means the phase of physical construction of a high-  
20 way or bridge facility that is separate from any  
21 other identified phases, such as planning, design, or  
22 right-of-way phases, in the State transportation im-  
23 provement program.

24 “(2) RESTRICTION.—In no case shall funds be  
25 used under this section for the repair or reconstruc-  
26 tion of a bridge—

1           “(A) that has been permanently closed to  
2           all vehicular traffic by the State or responsible  
3           local official because of imminent danger of col-  
4           lapse due to a structural deficiency or physical  
5           deterioration; or

6           “(B) if a construction phase of a replace-  
7           ment structure is included in the approved  
8           Statewide transportation improvement program  
9           at the time of an event described in subsection  
10          (a).

11          “(c) FUNDING.—

12           “(1) IN GENERAL.—Subject to the limitations  
13           described in paragraph (2), there are authorized to  
14           be appropriated from the Highway Trust Fund  
15           (other than the Mass Transit Account) such sums as  
16           are necessary to establish the fund authorized by  
17           this section and to replenish that fund on an annual  
18           basis.

19           “(2) LIMITATIONS.—The limitations referred to  
20           in paragraph (1) are that—

21           “(A) not more than \$100,000,000 is au-  
22           thorized to be obligated in any 1 fiscal year  
23           commencing after September 30, 1980, to carry  
24           out this section, except that, if for any fiscal  
25           year the total of all obligations under this sec-

1           tion is less than the amount authorized to be  
2           obligated for the fiscal year, the unobligated  
3           balance of that amount shall—

4                   “(i) remain available until expended;  
5                   and

6                   “(ii) be in addition to amounts other-  
7                   wise available to carry out this section for  
8                   each year; and

9                   “(B)(i) pending such appropriation or re-  
10                  plenishment, the Secretary may obligate from  
11                  any funds appropriated at any time for obliga-  
12                  tion in accordance with this title, including ex-  
13                  isting Federal-aid appropriations, such sums as  
14                  are necessary for the immediate prosecution of  
15                  the work herein authorized; and

16                  “(ii) funds obligated under this subpara-  
17                  graph shall be reimbursed from the appropria-  
18                  tion or replenishment.

19           “(d) ELIGIBILITY.—

20                   “(1) IN GENERAL.—The Secretary may expend  
21                  funds from the emergency fund authorized by this  
22                  section only for the repair or reconstruction of high-  
23                  ways on Federal-aid highways in accordance with  
24                  this chapter, except that—

1           “(A) no funds shall be so expended unless  
2 an emergency has been declared by the Gov-  
3 ernor of the State with concurrence by the Sec-  
4 retary, unless the President has declared the  
5 emergency to be a major disaster for the pur-  
6 poses of the Robert T. Stafford Disaster Relief  
7 and Emergency Assistance Act (42 U.S.C. 5121  
8 et seq.) for which concurrence of the Secretary  
9 is not required; and

10           “(B) the Secretary has received an applica-  
11 tion from the State transportation department  
12 that includes a comprehensive list of all eligible  
13 project sites and repair costs by not later than  
14 2 years after the natural disaster or cata-  
15 strophic failure.

16           “(2) COST LIMITATION.—

17           “(A) DEFINITION OF COMPARABLE FACIL-  
18 ITY.—In this paragraph, the term ‘comparable  
19 facility’ means a facility that meets the current  
20 geometric and construction standards required  
21 for a facility of comparable capacity and char-  
22 acter to the destroyed facility, except a bridge  
23 facility which may be constructed for the type  
24 and volume of traffic that the bridge will carry  
25 over its design life.

1           “(B) LIMITATION.—The total cost of a  
2           project funded under this section may not ex-  
3           ceed the cost of repair or reconstruction of a  
4           comparable facility.

5           “(3) DEBRIS REMOVAL.—The costs of debris  
6           removal shall be an eligible expense only for events  
7           not eligible for assistance pursuant to the Robert T.  
8           Stafford Disaster Relief and Emergency Assistance  
9           Act (42 U.S.C. 5121 et seq.).

10          “(4) TERRITORIES.—The total obligations for  
11          projects under this section for any fiscal year in the  
12          Virgin Islands, Guam, American Samoa, and the  
13          Commonwealth of the Northern Mariana Islands  
14          shall not exceed \$20,000,000.

15          “(5) SUBSTITUTE TRAFFIC.—Notwithstanding  
16          any other provision of this section, actual and nec-  
17          essary costs of maintenance and operation of ferry-  
18          boats or additional transit service providing tem-  
19          porary substitute highway traffic service, less the  
20          amount of fares charged for comparable service, may  
21          be expended from the emergency fund authorized by  
22          this section for Federal-aid highways.

23          “(e) TRIBAL TRANSPORTATION FACILITIES, FED-  
24          ERAL LANDS TRANSPORTATION FACILITIES, AND PUBLIC  
25          ROADS ON FEDERAL LANDS.—

1           “(1) DEFINITION OF OPEN TO PUBLIC TRAV-  
2           EL.—In this subsection, the term ‘open to public  
3           travel’ means, with respect to a road, that, except  
4           during scheduled periods, extreme weather condi-  
5           tions, or emergencies, the road is open to the general  
6           public for use with a standard passenger vehicle,  
7           without restrictive gates or prohibitive signs or regu-  
8           lations, other than for general traffic control or re-  
9           strictions based on size, weight, or class of registra-  
10          tion.

11          “(2) EXPENDITURE OF FUNDS.—Notwith-  
12          standing subsection (d)(1), the Secretary may ex-  
13          pend funds from the emergency fund authorized by  
14          this section, independently or in cooperation with  
15          any other branch of the Federal Government, a  
16          State agency, a tribal government, an organization,  
17          or a person, for the repair or reconstruction of tribal  
18          transportation facilities, Federal lands transpor-  
19          tation facilities, and other federally owned roads that  
20          are open to public travel, whether or not those facili-  
21          ties are Federal-aid highways.

22          “(3) REIMBURSEMENT.—

23                 “(A) IN GENERAL.—The Secretary may re-  
24                 imburse Federal and State agencies (including  
25                 political subdivisions) for expenditures made for



1 projects determined eligible under this section,  
2 including expenditures for emergency repairs  
3 made before a determination of eligibility.

4 “(B) TRANSFERS.—With respect to reim-  
5 bursements described in subparagraph (A)—

6 “(i) those reimbursements to Federal  
7 agencies and Indian tribal governments  
8 shall be transferred to the account from  
9 which the expenditure was made, or to a  
10 similar account that remains available for  
11 obligation; and

12 “(ii) the budget authority associated  
13 with the expenditure shall be restored to  
14 the agency from which the authority was  
15 derived and shall be available for obligation  
16 until the end of the fiscal year following  
17 the year in which the transfer occurs.

18 “(f) TREATMENT OF TERRITORIES.—For purposes of  
19 this section, the Virgin Islands, Guam, American Samoa,  
20 and the Commonwealth of the Northern Mariana Islands  
21 shall be considered to be States and parts of the United  
22 States, and the chief executive officer of each such terri-  
23 tory shall be considered to be a Governor of a State.”.

1 **SEC. 1108. TRANSPORTATION MOBILITY PROGRAM.**

2 (a) IN GENERAL.—Section 133 of title 23, United  
3 States Code, is amended to read as follows:

4 **“§ 133. Transportation mobility program**

5 “(a) ESTABLISHMENT.—The Secretary shall estab-  
6 lish and implement a transportation mobility program  
7 under this section.

8 “(b) PURPOSE.—The purpose of the transportation  
9 mobility program shall be to assist States and localities  
10 in improving the conditions and performance on Federal-  
11 aid highways and on bridges on any public road.

12 “(c) ELIGIBLE PROJECTS.—Funds apportioned  
13 under section 104(b)(2) to carry out the transportation  
14 mobility program may be obligated for any of following  
15 purposes:

16 “(1) Construction, reconstruction, rehabilita-  
17 tion, resurfacing, restoration, preservation, or oper-  
18 ational improvements for highways, including con-  
19 struction of designated routes of the Appalachian de-  
20 velopment highway system.

21 “(2) Replacement (including replacement with  
22 fill material), rehabilitation, preservation, protection  
23 (including painting, scour countermeasures, seismic  
24 retrofits, impact protection measures, security coun-  
25 termeasures, and protection against extreme events)  
26 and application of calcium magnesium acetate, so-

1       dium acetate/formate, or other environmentally ac-  
2       ceptable, minimally corrosive anti-icing and deicing  
3       compositions for bridges (and approaches to bridges  
4       and other elevated structures) and tunnels on public  
5       roads of all functional classifications, including any  
6       such construction or reconstruction necessary to ac-  
7       commodate other transportation modes.

8               “(3) Construction of a new bridge or tunnel on  
9       a new location on a highway, including any such  
10      construction necessary to accommodate other trans-  
11      portation modes.

12              “(4) Inspection and evaluation (within the  
13      meaning of section 144) of bridges and tunnels on  
14      public roads of all functional classifications and in-  
15      spection and evaluation of other highway infrastruc-  
16      ture assets, including signs and sign structures, re-  
17      taining walls, and drainage structures.

18              “(5) Training of bridge and tunnel inspectors  
19      (within the meaning of section 144).

20              “(6) Capital costs for transit projects eligible  
21      for assistance under chapter 53 of title 49, including  
22      vehicles and facilities, whether publicly or privately  
23      owned, that are used to provide intercity passenger  
24      service by bus.

1           “(7) Carpool projects, fringe and corridor park-  
2           ing facilities and programs, including electric vehicle  
3           infrastructure in accordance with section 137, bicy-  
4           cle transportation and pedestrian walkways in ac-  
5           cordance with section 217, and the modification of  
6           public sidewalks to comply with the Americans with  
7           Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

8           “(8) Highway and transit safety infrastructure  
9           improvements and programs, installation of safety  
10          barriers and nets on bridges, hazard eliminations,  
11          projects to mitigate hazards caused by wildlife, and  
12          railway-highway grade crossings.

13          “(9) Highway and transit research and develop-  
14          ment and technology transfer programs.

15          “(10) Capital and operating costs for traffic  
16          and traveler information monitoring, management,  
17          and control facilities and programs, including truck  
18          stop electrification systems.

19          “(11) Projects and strategies designed to sup-  
20          port congestion pricing, including electronic toll col-  
21          lection and travel demand management strategies  
22          and programs.

23          “(12) Surface transportation planning.

24          “(13) Transportation enhancement activities.

1           “(14) Recreational trails projects eligible for  
2 funding under section 206.

3           “(15) Construction of ferry boats and ferry ter-  
4 minal facilities eligible for funding under section  
5 129(c).

6           “(16) Border infrastructure projects eligible for  
7 funding under section 1303 of the SAFETEA-LU  
8 (Public Law 109–59).

9           “(17) Projects associated with National Scenic  
10 Byways, All-American Roads, and America’s Byways  
11 eligible for funding under section 162.

12           “(18) Truck parking facilities eligible for fund-  
13 ing under section 1401 of the MAP–21.

14           “(19) Safe routes to school projects eligible for  
15 funding under section 1404 of the SAFETEA-LU  
16 (23 U.S.C. 402 note; Public Law 109–59).

17           “(20) Transportation control measures de-  
18 scribed in section 108(f)(1)(A) of the Clean Air Act  
19 (42 U.S.C. 7408(f)(1)(A)), other than section  
20 108(f)(1)(A)(xvi) of that Act.

21           “(21) Development and implementation of a  
22 State asset management plan for the National High-  
23 way System in accordance with section 119, includ-  
24 ing data collection, maintenance, and integration  
25 and the costs associated with obtaining, updating,

1 and licensing software and equipment required for  
2 risk-based asset management and performance-based  
3 management, and for similar activities relating to  
4 the development and implementation of a perform-  
5 ance-based management system for other public  
6 roads.

7 “(22) In accordance with all applicable Federal  
8 law (including regulations), participation in natural  
9 habitat and wetlands mitigation efforts relating to  
10 projects funded under this title, which may include  
11 participation in natural habitat and wetlands mitiga-  
12 tion banks, contributions to statewide and regional  
13 efforts to conserve, restore, enhance, and create nat-  
14 ural habitats and wetlands, and development of  
15 statewide and regional natural habitat and wetlands  
16 conservation and mitigation plans, including any  
17 such banks, efforts, and plans developed in accord-  
18 ance with applicable Federal law (including regula-  
19 tions), on the conditions that—

20 “(A) contributions to those mitigation ef-  
21 forts may—

22 “(i) take place concurrent with or in  
23 advance of project construction; and

24 “(ii) occur in advance of project con-  
25 struction only if the efforts are consistent

1 with all applicable requirements of Federal  
2 law (including regulations) and State  
3 transportation planning processes; and

4 “(B) with respect to participation in a nat-  
5 ural habitat or wetland mitigation effort relat-  
6 ing to a project funded under this title that has  
7 an impact that occurs within the service area of  
8 a mitigation bank, preference is given, to the  
9 maximum extent practicable, to the use of the  
10 mitigation bank if the bank contains sufficient  
11 available credits to offset the impact and the  
12 bank is approved in accordance with applicable  
13 Federal law (including regulations).

14 “(23) Infrastructure-based intelligent transpor-  
15 tation systems capital improvements.

16 “(24) Environmental restoration and pollution  
17 abatement in accordance with section 328.

18 “(25) Control of noxious weeds and aquatic  
19 noxious weeds and establishment of native species in  
20 accordance with section 329.

21 “(26) Improvements to a freight railroad, ma-  
22 rine highway, or intermodal facility, but only to the  
23 extent that the Secretary concurs with the State  
24 that—

1           “(A) the project will make significant im-  
2           provement to freight movements on the national  
3           freight network;

4           “(B) the public benefit of the project ex-  
5           ceeds the Federal investment; and

6           “(C) the project provides a better return  
7           than a highway project on a segment of the pri-  
8           mary freight network, except that a State may  
9           not obligate in excess of 5 percent of funds ap-  
10          portioned to the State under section 104(b)(2)  
11          to carry out this section for that purpose.

12          “(d) ALLOCATIONS OF APPORTIONED FUNDS TO  
13          AREAS BASED ON POPULATION.—

14               “(1) CALCULATION.—Of the funds apportioned  
15          to a State under section 104(b)(2)—

16                   “(A) 50 percent for a fiscal year shall be  
17                   obligated under this section, in proportion to  
18                   their relative shares of the population of the  
19                   State—

20                           “(i) in urbanized areas of the State  
21                           with an urbanized area population of over  
22                           200,000;

23                           “(ii) in areas of the State other than  
24                           urban areas with a population greater than  
25                           5,000; and



1 “(iii) in other areas of the State; and

2 “(B) 50 percent may be obligated in any  
3 area of the State.

4 “(2) METROPOLITAN AREAS.—Funds attributed  
5 to an urbanized area under subparagraph (A)(i) may  
6 be obligated in the metropolitan area established  
7 under section 134 that encompasses the urbanized  
8 area.

9 “(3) DISTRIBUTION AMONG URBANIZED AREAS  
10 OF OVER 200,000 POPULATION.—

11 “(A) IN GENERAL.—Except as provided in  
12 subparagraph (B), the amount of funds that a  
13 State is required to obligate under paragraph  
14 (1)(A)(i) shall be obligated in urbanized areas  
15 described in paragraph (1)(A)(i) based on the  
16 relative population of the areas.

17 “(B) OTHER FACTORS.—The State may  
18 obligate the funds described in subparagraph  
19 (A) based on other factors if the State and the  
20 relevant metropolitan planning organizations  
21 jointly apply to the Secretary for the permission  
22 to base the obligation on other factors and the  
23 Secretary grants the request.

24 “(e) LOCATION OF PROJECTS.—Except as provided  
25 in subsection (g) and for projects described in paragraphs

1 (2), (4), (7), (8), (13), (14), and (19) of subsection (c),  
2 transportation mobility program projects may not be un-  
3 dertaken on roads functionally classified as local or rural  
4 minor collectors.

5 “(f) APPLICABILITY OF PLANNING REQUIRE-  
6 MENTS.—Programming and expenditure of funds for  
7 projects under this section shall be consistent with sections  
8 134 and 135.

9 “(g) BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—

10 “(1) DEFINITION OF OFF-SYSTEM BRIDGE.—

11 The term ‘off-system bridge’ means a highway  
12 bridge located on a public road, other than a bridge  
13 on a Federal-aid highway.

14 “(2) SPECIAL RULE.—

15 “(A) PENALTY.—If the total deck area of  
16 deficient off-system bridges in a State increases  
17 for the 2 most recent consecutive years, the  
18 State shall be required, during the following fis-  
19 cal year, to obligate for the improvement of de-  
20 ficient off-system bridges from the amounts ap-  
21 portioned to the State under section 104(b)(2)  
22 an amount that is not less than 110 percent of  
23 the amount of funds required to be obligated by  
24 the State for off-system bridges for fiscal year  
25 2009 under section 144(f)(2), as in effect on

1 the day before the date of enactment of the  
2 MAP-21, except that the amount reserved  
3 under this subparagraph shall be increased by  
4 2 percent over the amount reserved in the pre-  
5 vious fiscal year for each year after fiscal year  
6 2013.

7 “(B) RESTORATION.—The obligation re-  
8 quirement for off-system bridges in a State re-  
9 quired by subparagraph (A) for a fiscal year  
10 shall remain in effect for each subsequent fiscal  
11 year until such time as the total deck area of  
12 deficient off-system bridges in the State has de-  
13 creased to the level it was in the State for the  
14 fiscal year prior to the establishment of the ob-  
15 ligation requirement for the State under sub-  
16 paragraph (A).

17 “(3) CREDIT FOR BRIDGES NOT ON FEDERAL-  
18 AID HIGHWAYS.—Notwithstanding any other provi-  
19 sion of law, with respect to any project not on a  
20 Federal-aid highway for the replacement of a bridge  
21 or rehabilitation of a bridge that is wholly funded  
22 from State and local sources, is eligible for Federal  
23 funds under this section, is noncontroversial, is cer-  
24 tified by the State to have been carried out in ac-  
25 cordance with all standards applicable to such

1 projects under this section, and is determined by the  
2 Secretary upon completion to be no longer a defi-  
3 cient bridge—

4 “(A) any amount expended after the date  
5 of enactment of this subsection from State and  
6 local sources for the project in excess of 20 per-  
7 cent of the cost of construction of the project  
8 may be credited to the non-Federal share of the  
9 cost of other bridge projects in the State that  
10 are eligible for Federal funds under this sec-  
11 tion; and

12 “(B) that crediting shall be conducted in  
13 accordance with procedures established by the  
14 Secretary.”.

15 (b) CONFORMING AMENDMENT.—The analysis for  
16 chapter 1 of title 23, United States Code, is amended by  
17 striking the item relating to section 133 and inserting the  
18 following:

“133. Transportation mobility program.”.

19 **SEC. 1109. WORKFORCE DEVELOPMENT.**

20 (a) ON-THE-JOB TRAINING.—Section 140(b) of title  
21 23, United States Code, is amended—

22 (1) by striking “Whenever apportionments are  
23 made under section 104(b)(3),” and inserting  
24 “From administrative funds made available under  
25 section 104(a),”; and

1           (2) by striking “the surface transportation pro-  
 2           gram under section 104(b) and the bridge program  
 3           under section 144” and inserting “the transpor-  
 4           tation mobility program under section 104(b)”.

5           (b) DISADVANTAGED BUSINESS ENTERPRISE.—Sec-  
 6           tion 140(c) of title 23, United States Code, is amended  
 7           by striking “Whenever apportionments are made under  
 8           section 104(b)(3),” and inserting “From administrative  
 9           funds made available under section 104(a),”.

10 **SEC. 1110. HIGHWAY USE TAX EVASION PROJECTS.**

11           Section 143 of title 23, United States Code, is  
 12           amended—

13           (1) in subsection (b)—

14                   (A) by striking paragraph (2) and insert-  
 15                   ing the following:

16                   “(2) FUNDING.—

17                           “(A) IN GENERAL.—From administrative  
 18                           funds made available under section 104(a), the  
 19                           Secretary shall deduct such sums as are nec-  
 20                           essary, not to exceed \$10,000,000 for each fis-  
 21                           cal year, to carry out this section.

22                           “(B) ALLOCATION OF FUNDS.—Funds  
 23                           made available to carry out this section may be  
 24                           allocated to the Internal Revenue Service and  
 25                           the States at the discretion of the Secretary, ex-

cept that of funds so made available for each fiscal year, \$2,000,000 shall be available only to carry out intergovernmental enforcement efforts, including research and training.”; and

(B) in paragraph (8)—

(i) in the paragraph heading by striking “SURFACE TRANSPORTATION PROGRAM” and inserting “TRANSPORTATION MOBILITY PROGRAM”; and

(ii) by striking “section 104(b)(3)” and inserting “section 104(b)(2)”; and

(2) in subsection (c)(3) by striking “for each of fiscal years 2005 through 2009,” and inserting “for each fiscal year,”.

**SEC. 1111. NATIONAL BRIDGE AND TUNNEL INVENTORY AND INSPECTION STANDARDS.**

(a) IN GENERAL.—Section 144 of title 23, United States Code, is amended to read as follows:

**“§ 144. National bridge and tunnel inventory and inspection standards**

“(a) FINDINGS AND DECLARATIONS.—

“(1) FINDINGS.—Congress finds that—

“(A) the condition of the bridges of the United States has improved since the date of enactment of the Transportation Equity Act for

1 the 21st Century (Public Law 105–178; 112  
2 Stat. 107), yet continued improvement to  
3 bridge conditions is essential to protect the  
4 safety of the traveling public and allow for the  
5 efficient movement of people and goods on  
6 which the economy of the United States relies;  
7 and

8 “(B) the systematic preventative mainte-  
9 nance of bridges, and replacement and rehabili-  
10 tation of deficient bridges, should be under-  
11 taken through an overall asset management ap-  
12 proach to transportation investment.

13 “(2) DECLARATIONS.—Congress declares that  
14 it is in the vital interest of the United States—

15 “(A) to inventory, inspect, and improve the  
16 condition of the highway bridges and tunnels of  
17 the United States;

18 “(B) to use a data-driven, risk-based ap-  
19 proach and cost-effective strategy for systematic  
20 preventative maintenance, replacement, and re-  
21 habilitation of highway bridges and tunnels to  
22 ensure safety and extended service life;

23 “(C) to use performance-based bridge  
24 management systems to assist States in making  
25 timely investments;

1           “(D) to ensure accountability and link per-  
2           formance outcomes to investment decisions; and

3           “(E) to ensure connectivity and access for  
4           residents of rural areas of the United States  
5           through strategic investments in National High-  
6           way System bridges and bridges on all public  
7           roads.

8           “(b) NATIONAL BRIDGE AND TUNNEL INVEN-  
9           TORIES.—

10           “(1) IN GENERAL.—The Secretary, in consulta-  
11           tion with the States, shall—

12           “(A) inventory all highway bridges on pub-  
13           lic roads that are bridges over waterways, other  
14           topographical barriers, other highways, and  
15           railroads;

16           “(B) classify the bridges according to serv-  
17           iceability, safety, and essentiality for public use,  
18           including the potential impacts to emergency  
19           evacuation routes and to regional and national  
20           freight and passenger mobility if the service-  
21           ability of the bridge is restricted or diminished;  
22           and

23           “(C) based on that classification, assign  
24           each a risk-based priority for systematic pre-



1           ventative maintenance, replacement, or rehabili-  
2           tation.

3           “(2) TRIBALLY OWNED AND FEDERALLY  
4 OWNED BRIDGES.—As part of the activities carried  
5 out under paragraph (1), the Secretary, in consulta-  
6 tion with the Secretaries of appropriate Federal  
7 agencies, shall—

8                   “(A) inventory all tribally owned and Fed-  
9                   erally owned highway bridges that are open to  
10                  the public, over waterways, other topographical  
11                  barriers, other highways, and railroads;

12                   “(B) classify the bridges according to serv-  
13                  iceability, safety, and essentiality for public use;  
14                  and

15                   “(C) based on the classification, assign  
16                  each a risk-based priority for systematic pre-  
17                  ventative maintenance, replacement, or rehabili-  
18                  tation.

19           “(3) TUNNELS.—The Secretary shall establish  
20           a national inventory of highway tunnels reflecting  
21           the findings of the most recent highway tunnel in-  
22           spections conducted by States under this section.

23           “(c) GENERAL BRIDGE AUTHORITY.—

24                   “(1) IN GENERAL.—Except as provided in para-  
25                  graph (2) and notwithstanding any other provision

1 of law, the General Bridge Act of 1946 (33 U.S.C.  
2 525 et seq.) shall apply to bridges authorized to be  
3 replaced, in whole or in part, by this title.

4 “(2) EXCEPTION.—Section 502(b) of the Gen-  
5 eral Bridge Act of 1946 (33 U.S.C. 525(b)) and sec-  
6 tion 9 of the Act of March 3, 1899 (33 U.S.C. 401),  
7 shall not apply to any bridge constructed, recon-  
8 structed, rehabilitated, or replaced with assistance  
9 under this title, if the bridge is over waters that—

10 “(A) are not used and are not susceptible  
11 to use in the natural condition of the bridge or  
12 by reasonable improvement as a means to  
13 transport interstate or foreign commerce; and

14 “(B) are—

15 “(i) not tidal; or

16 “(ii) if tidal, used only by recreational  
17 boating, fishing, and other small vessels  
18 that are less than 21 feet in length.

19 “(d) INVENTORY UPDATES AND REPORTS.—

20 “(1) IN GENERAL.—The Secretary shall—

21 “(A) annually revise the inventories au-  
22 thorized by subsection (b); and

23 “(B) submit to the Committee on Trans-  
24 portation and Infrastructure of the House of  
25 Representatives and the Committee on Environ-

1           ment and Public Works of the Senate a report  
2           on the inventories.

3           “(2) INSPECTION REPORT.—Not later than 1  
4           year after the date of enactment of the MAP-21,  
5           each State and appropriate Federal agency shall re-  
6           port element level data to the Secretary, as each  
7           bridge is inspected pursuant to this section, for all  
8           highway bridges on the National Highway System.

9           “(3) GUIDANCE.—The Secretary shall provide  
10          guidance to States and Federal agencies for imple-  
11          mentation of this subsection.

12          “(4) BRIDGES NOT ON NATIONAL HIGHWAY  
13          SYSTEM.—The Secretary shall—

14                 “(A) conduct a study on the benefits, cost-  
15                 effectiveness, and feasibility of requiring ele-  
16                 ment-level data collection for bridges not on the  
17                 National Highway System; and

18                 “(B) submit to the Committee on Trans-  
19                 portation and Infrastructure of the House of  
20                 Representatives and the Committee on Environ-  
21                 ment and Public Works of the Senate a report  
22                 on the results of the study.

23          “(e) BRIDGES WITHOUT TAXING POWERS.—

24                 “(1) IN GENERAL.—Notwithstanding any other  
25                 provision of law, any bridge that is owned and oper-

1       ated by an agency that does not have taxing powers  
2       and whose functions include operating a federally as-  
3       sisted public transit system subsidized by toll reve-  
4       nues shall be eligible for assistance under this title,  
5       but the amount of such assistance shall in no event  
6       exceed the cumulative amount which such agency  
7       has expended for capital and operating costs to sub-  
8       sidize such transit system.

9           “(2) INSUFFICIENT ASSETS.—Before author-  
10       izing an expenditure of funds under this subsection,  
11       the Secretary shall determine that the applicant  
12       agency has insufficient reserves, surpluses, and pro-  
13       jected revenues (over and above those required for  
14       bridge and transit capital and operating costs) to  
15       fund the necessary bridge replacement or rehabilita-  
16       tion project.

17           “(3) CREDITING OF NON-FEDERAL FUNDS.—  
18       Any non-Federal funds expended for the seismic ret-  
19       rofit of the bridge may be credited toward the non-  
20       Federal share required as a condition of receipt of  
21       any Federal funds for seismic retrofit of the bridge  
22       made available after the date of the expenditure.

23           “(f) REPLACEMENT OF DESTROYED BRIDGES AND  
24       FERRY BOAT SERVICE.—

1           “(1) IN GENERAL.—Notwithstanding any other  
2 provision of law, a State may use the funds appor-  
3 tioned under section 104(b)(2) to construct any  
4 bridge that replaces—

5           “(A) any low water crossing (regardless of  
6 the length of the low water crossing);

7           “(B) any bridge that was destroyed prior  
8 to January 1, 1965;

9           “(C) any ferry that was in existence on  
10 January 1, 1984; or

11           “(D) any road bridge that is rendered ob-  
12 solete as a result of a Corps of Engineers flood  
13 control or channelization project and is not re-  
14 built with funds from the Corps of Engineers.

15           “(2) FEDERAL SHARE.—The Federal share  
16 payable on any bridge construction carried out under  
17 paragraph (1) shall be 80 percent of the cost of the  
18 construction.

19           “(g) HISTORIC BRIDGES.—

20           “(1) DEFINITION OF HISTORIC BRIDGE.—In  
21 this subsection, the term ‘historic bridge’ means any  
22 bridge that is listed on, or eligible for listing on, the  
23 National Register of Historic Places.

24           “(2) COORDINATION.—The Secretary shall, in  
25 cooperation with the States, encourage the retention,

1 rehabilitation, adaptive reuse, and future study of  
2 historic bridges.

3 “(3) STATE INVENTORY.—The Secretary shall  
4 require each State to complete an inventory of all  
5 bridges on and off Federal-aid highways to deter-  
6 mine the historic significance of the bridges.

7 “(4) ELIGIBILITY.—

8 “(A) IN GENERAL.—Subject to subpara-  
9 graph (B), reasonable costs associated with ac-  
10 tions to preserve, or reduce the impact of a  
11 project under this chapter on, the historic integ-  
12 rity of a historic bridge shall be eligible as reim-  
13 bursable project costs under section 133 if the  
14 load capacity and safety features of the historic  
15 bridge are adequate to serve the intended use  
16 for the life of the historic bridge.

17 “(B) BRIDGES NOT USED FOR VEHICLE  
18 TRAFFIC.—In the case of a historic bridge that  
19 is no longer used for motorized vehicular traf-  
20 fic, the costs eligible as reimbursable project  
21 costs pursuant to this chapter shall not exceed  
22 the estimated cost of demolition of the historic  
23 bridge.

24 “(5) PRESERVATION.—Any State that proposes  
25 to demolish a historic bridge for a replacement

1 project with funds made available to carry out this  
2 section shall first make the historic bridge available  
3 for donation to a State, locality, or responsible pri-  
4 vate entity if the State, locality, or responsible entity  
5 enters into an agreement—

6 “(A) to maintain the bridge and the fea-  
7 tures that give the historic bridge its historic  
8 significance; and

9 “(B) to assume all future legal and finan-  
10 cial responsibility for the historic bridge, which  
11 may include an agreement to hold the State  
12 transportation department harmless in any li-  
13 ability action.

14 “(6) COSTS INCURRED.—

15 “(A) IN GENERAL.—Costs incurred by the  
16 State to preserve a historic bridge (including  
17 funds made available to the State, locality, or  
18 private entity to enable it to accept the bridge)  
19 shall be eligible as reimbursable project costs  
20 under this chapter in an amount not to exceed  
21 the cost of demolition.

22 “(B) ADDITIONAL FUNDING.—Any bridge  
23 preserved pursuant to this paragraph shall not  
24 be eligible for any other funds authorized pur-  
25 suant to this title.

1       “(h) NATIONAL BRIDGE AND TUNNEL INSPECTION  
2 STANDARDS.—

3           “(1) REQUIREMENT.—

4               “(A) IN GENERAL.—The Secretary shall  
5 establish and maintain inspection standards for  
6 the proper inspection and evaluation of all high-  
7 way bridges and tunnels for safety and service-  
8 ability.

9               “(B) UNIFORMITY.—The standards under  
10 this subsection shall be designed to ensure uni-  
11 formity of the inspections and evaluations.

12           “(2) MINIMUM REQUIREMENTS OF INSPECTION  
13 STANDARDS.—The standards established under  
14 paragraph (1) shall, at a minimum—

15               “(A) specify, in detail, the method by  
16 which the inspections shall be carried out by the  
17 States, Federal agencies, and tribal govern-  
18 ments;

19               “(B) establish the maximum time period  
20 between inspections;

21               “(C) establish the qualifications for those  
22 charged with carrying out the inspections;

23               “(D) require each State, Federal agency,  
24 and tribal government to maintain and make  
25 available to the Secretary on request—



1                   “(i) written reports on the results of  
2                   highway bridge and tunnel inspections and  
3                   notations of any action taken pursuant to  
4                   the findings of the inspections; and

5                   “(ii) current inventory data for all  
6                   highway bridges and tunnels reflecting the  
7                   findings of the most recent highway bridge  
8                   and tunnel inspections conducted; and

9                   “(E) establish a procedure for national  
10                  certification of highway bridge inspectors and  
11                  tunnel inspectors.

12                  “(3) STATE COMPLIANCE WITH INSPECTION  
13                  STANDARDS.—The Secretary shall, at a minimum—

14                         “(A) establish, in consultation with the  
15                         States, and interested and knowledgeable pri-  
16                         vate organizations and individuals, procedures  
17                         to conduct reviews of State compliance with—

18                                 “(i) the standards established under  
19                                 this subsection; and

20                                 “(ii) the calculation or reevaluation of  
21                                 bridge load ratings; and

22                         “(B) establish, in consultation with the  
23                         States, and interested and knowledgeable pri-  
24                         vate organizations and individuals, procedures

1 for States to follow in reporting to the Sec-  
2 retary—

3 “(i) critical findings relating to struc-  
4 tural or safety-related deficiencies of high-  
5 way bridges; and

6 “(ii) monitoring activities and correc-  
7 tive actions taken in response to a critical  
8 finding.

9 “(4) REVIEWS OF STATE COMPLIANCE.—

10 “(A) IN GENERAL.—The Secretary shall  
11 annually review State compliance with the  
12 standards established under this section.

13 “(B) NONCOMPLIANCE.—If an annual re-  
14 view in accordance with subparagraph (A) iden-  
15 tifies noncompliance by a State, the Secretary  
16 shall—

17 “(i) issue a report detailing the issues  
18 of the noncompliance by December 31 of  
19 the calendar year in which the review was  
20 made; and

21 “(ii) provide the State an opportunity  
22 to address the noncompliance by—

23 “(I) developing a corrective ac-  
24 tion plan to remedy the noncompli-  
25 ance; or

1                   “(II) resolving the issues of non-  
2                   compliance not later than 45 days  
3                   after the date of notification.

4                   “(5) PENALTY FOR NONCOMPLIANCE.—

5                   “(A) IN GENERAL.—If a State fails to sat-  
6                   isfy the requirements of paragraph (4)(B) by  
7                   August 1 of the calendar year following the  
8                   year of a finding of noncompliance, the Sec-  
9                   retary shall, on October 1 of that year, and  
10                  each year thereafter as may be necessary, re-  
11                  quire the State to dedicate funds apportioned to  
12                  the State under sections 119 and 133 after the  
13                  date of enactment of the MAP-21 to correct  
14                  the noncompliance with the minimum inspection  
15                  standards established under this subsection.

16                  “(B) AMOUNT.—The amount of the funds  
17                  to be directed to correcting noncompliance in  
18                  accordance with subparagraph (A) shall—

19                         “(i) be determined by the State based  
20                         on an analysis of the actions needed to ad-  
21                         dress the noncompliance; and

22                         “(ii) require approval by the Sec-  
23                         retary.

24                  “(6) UPDATE OF STANDARDS.—Not later than  
25                  3 years after the date of enactment of the MAP-21,

1 the Secretary shall update inspection standards to  
2 cover—

3 “(A) the methodology, training, and quali-  
4 fications for inspectors; and

5 “(B) the frequency of inspection.

6 “(7) RISK-BASED APPROACH.—In carrying out  
7 the revisions required by paragraph (6), the Sec-  
8 retary shall consider a risk-based approach to deter-  
9 mining the frequency of bridge inspections.

10 “(i) TRAINING PROGRAM FOR BRIDGE AND TUNNEL  
11 INSPECTORS.—

12 “(1) IN GENERAL.—The Secretary, in coopera-  
13 tion with the State transportation departments, shall  
14 maintain a program designed to train appropriate  
15 personnel to carry out highway bridge and tunnel in-  
16 spections.

17 “(2) REVISIONS.—The training program shall  
18 be revised from time to time to take into account  
19 new and improved techniques.

20 “(j) AVAILABILITY OF FUNDS.—To carry out this  
21 section, the Secretary may use funds made available under  
22 sections 104(a), 119, 133, and 503.”.

23 (b) CONFORMING AMENDMENT.—The analysis for  
24 chapter 1 of title 23, United States Code, is amended by

1 striking the item relating to section 144 and inserting the  
2 following:

“144. National bridge and tunnel inventory and inspection standards.”.

3 **SEC. 1112. HIGHWAY SAFETY IMPROVEMENT PROGRAM.**

4 Section 148 of title 23, United States Code, is  
5 amended to read as follows:

6 **“§ 148. Highway safety improvement program**

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

9 “(1) HIGH RISK RURAL ROAD.—The term ‘high  
10 risk rural road’ means any roadway functionally  
11 classified as a rural major or minor collector or a  
12 rural local road with significant safety risks, as de-  
13 fined by a State in accordance with an updated  
14 State strategic highway safety plan.

15 “(2) HIGHWAY BASEMAP.—The term ‘highway  
16 basemap’ means a representation of all public roads  
17 that can be used to geolocate attribute data on a  
18 roadway.

19 “(3) HIGHWAY SAFETY IMPROVEMENT PRO-  
20 GRAM.—The term ‘highway safety improvement pro-  
21 gram’ means projects, activities, plans, and reports  
22 carried out under this section.

23 “(4) HIGHWAY SAFETY IMPROVEMENT  
24 PROJECT.—

1           “(A) IN GENERAL.—The term ‘highway  
2 safety improvement project’ means strategies,  
3 activities, and projects on a public road that are  
4 consistent with a State strategic highway safety  
5 plan and—

6                   “(i) correct or improve a hazardous  
7 road location or feature; or

8                   “(ii) address a highway safety prob-  
9 lem.

10           “(B) INCLUSIONS.—The term ‘highway  
11 safety improvement project’ includes, but is not  
12 limited to, a project for 1 or more of the fol-  
13 lowing:

14                   “(i) An intersection safety improve-  
15 ment.

16                   “(ii) Pavement and shoulder widening  
17 (including addition of a passing lane to  
18 remedy an unsafe condition).

19                   “(iii) Installation of rumble strips or  
20 another warning device, if the rumble  
21 strips or other warning devices do not ad-  
22 versely affect the safety or mobility of  
23 bicyclists and pedestrians, including per-  
24 sons with disabilities.

1           “(iv) Installation of a skid-resistant  
2 surface at an intersection or other location  
3 with a high frequency of crashes.

4           “(v) An improvement for pedestrian  
5 or bicyclist safety or safety of persons with  
6 disabilities.

7           “(vi) Construction and improvement  
8 of a railway-highway grade crossing safety  
9 feature, including installation of protective  
10 devices.

11           “(vii) The conduct of a model traffic  
12 enforcement activity at a railway-highway  
13 crossing.

14           “(viii) Construction of a traffic  
15 calming feature.

16           “(ix) Elimination of a roadside haz-  
17 ard.

18           “(x) Installation, replacement, and  
19 other improvement of highway signage and  
20 pavement markings, or a project to main-  
21 tain minimum levels of retroreflectivity,  
22 that addresses a highway safety problem  
23 consistent with a State strategic highway  
24 safety plan.

1           “(xi) Installation of a priority control  
2 system for emergency vehicles at signalized  
3 intersections.

4           “(xii) Installation of a traffic control  
5 or other warning device at a location with  
6 high crash potential.

7           “(xiii) Transportation safety planning.

8           “(xiv) Collection, analysis, and im-  
9 provement of safety data.

10           “(xv) Planning integrated interoper-  
11 able emergency communications equip-  
12 ment, operational activities, or traffic en-  
13 forcement activities (including police as-  
14 sistance) relating to work zone safety.

15           “(xvi) Installation of guardrails, bar-  
16 riers (including barriers between construc-  
17 tion work zones and traffic lanes for the  
18 safety of road users and workers), and  
19 crash attenuators.

20           “(xvii) The addition or retrofitting of  
21 structures or other measures to eliminate  
22 or reduce crashes involving vehicles and  
23 wildlife.



1           “(xviii) Installation of yellow-green  
2 signs and signals at pedestrian and bicycle  
3 crossings and in school zones.

4           “(xix) Construction and operational  
5 improvements on high risk rural roads.

6           “(xx) Geometric improvements to a  
7 road for safety purposes that improve safe-  
8 ty.

9           “(xxi) A road safety audit.

10           “(xxii) Roadway safety infrastructure  
11 improvements consistent with the rec-  
12 ommendations included in the publication  
13 of the Federal Highway Administration en-  
14 titled ‘Highway Design Handbook for  
15 Older Drivers and Pedestrians’ (FHWA-  
16 RD-01-103), dated May 2001 or as subse-  
17 quently revised and updated.

18           “(xxiii) Truck parking facilities eligi-  
19 ble for funding under section 1401 of the  
20 MAP-21.

21           “(xxiv) Systemic safety improvements.

22           “(5) MODEL INVENTORY OF ROADWAY ELE-  
23 MENTS.—The term ‘model inventory of roadway ele-  
24 ments’ means the listing and standardized coding by  
25 the Federal Highway Administration of roadway and

1 traffic data elements critical to safety management,  
2 analysis, and decisionmaking.

3 “(6) PROJECT TO MAINTAIN MINIMUM LEVELS  
4 OF RETROREFLECTIVITY.—The term ‘project to  
5 maintain minimum levels of retroreflectivity’ means  
6 a project that is designed to maintain a highway  
7 sign or pavement marking retroreflectivity at or  
8 above the minimum levels prescribed in Federal or  
9 State regulations.

10 “(7) ROAD SAFETY AUDIT.—The term ‘road  
11 safety audit’ means a formal safety performance ex-  
12 amination of an existing or future road or intersec-  
13 tion by an independent multidisciplinary audit team.

14 “(8) ROAD USERS.—The term ‘road user’  
15 means a motorist, passenger, public transportation  
16 operator or user, truck driver, bicyclist, motorcyclist,  
17 or pedestrian, including a person with disabilities.

18 “(9) SAFETY DATA.—

19 “(A) IN GENERAL.—The term ‘safety data’  
20 means crash, roadway, and traffic data on a  
21 public road.

22 “(B) INCLUSION.—The term ‘safety data’  
23 includes, in the case of a railway-highway grade  
24 crossing, the characteristics of highway and  
25 train traffic, licensing, and vehicle data.

1           “(10) SAFETY PROJECT UNDER ANY OTHER  
2 SECTION.—

3           “(A) IN GENERAL.—The term ‘safety  
4 project under any other section’ means a  
5 project carried out for the purpose of safety  
6 under any other section of this title.

7           “(B) INCLUSION.—The term ‘safety  
8 project under any other section’ includes—

9           “(i) a project consistent with the  
10 State strategic highway safety plan that  
11 promotes the awareness of the public and  
12 educates the public concerning highway  
13 safety matters (including motorcycle safe-  
14 ty);

15           “(ii) a project to enforce highway  
16 safety laws; and

17           “(iii) a project to provide infrastruc-  
18 ture and infrastructure-related equipment  
19 to support emergency services.

20           “(11) STATE HIGHWAY SAFETY IMPROVEMENT  
21 PROGRAM.—The term ‘State highway safety im-  
22 provement program’ means a program of highway  
23 safety improvement projects, activities, plans and re-  
24 ports carried out as part of the Statewide transpor-  
25 tation improvement program under section 135(g).

1           “(12) STATE STRATEGIC HIGHWAY SAFETY  
2 PLAN.—The term ‘State strategic highway safety  
3 plan’ means a comprehensive plan, based on safety  
4 data, developed by a State transportation depart-  
5 ment that—

6           “(A) is developed after consultation with—

7           “(i) a highway safety representative of  
8 the Governor of the State;

9           “(ii) regional transportation planning  
10 organizations and metropolitan planning  
11 organizations, if any;

12           “(iii) representatives of major modes  
13 of transportation;

14           “(iv) State and local traffic enforce-  
15 ment officials;

16           “(v) a highway-rail grade crossing  
17 safety representative of the Governor of  
18 the State;

19           “(vi) representatives conducting a  
20 motor carrier safety program under section  
21 31102, 31106, or 31309 of title 49;

22           “(vii) motor vehicle administration  
23 agencies;

24           “(viii) county transportation officials;  
25 and

1                   “(ix) other major Federal, State, trib-  
2                   al, and local safety stakeholders;

3                   “(B) analyzes and makes effective use of  
4                   State, regional, local, or tribal safety data;

5                   “(C) addresses engineering, management,  
6                   operation, education, enforcement, and emer-  
7                   gency services elements (including integrated,  
8                   interoperable emergency communications) of  
9                   highway safety as key factors in evaluating  
10                  highway projects;

11                  “(D) considers safety needs of, and high-  
12                  fatality segments of, all public roads, including  
13                  non-State-owned public roads and roads on  
14                  tribal land;

15                  “(E) considers the results of State, re-  
16                  gional, or local transportation and highway  
17                  safety planning processes;

18                  “(F) describes a program of strategies to  
19                  reduce or eliminate safety hazards;

20                  “(G) is approved by the Governor of the  
21                  State or a responsible State agency;

22                  “(H) is consistent with section 135(g); and

23                  “(I) is updated and submitted to the Sec-  
24                  retary for approval as required under sub-  
25                  section (d)(2).

1           “(13) SYSTEMIC SAFETY IMPROVEMENT.—The  
2 term ‘systemic safety improvement’ means an im-  
3 provement that is widely implemented based on  
4 high-risk roadway features that are correlated with  
5 particular crash types, rather than crash frequency.

6           “(b) PROGRAM.—

7           “(1) IN GENERAL.—The Secretary shall carry  
8 out a highway safety improvement program.

9           “(2) PURPOSE.—The purpose of the highway  
10 safety improvement program shall be to achieve a  
11 significant reduction in traffic fatalities and serious  
12 injuries on all public roads, including non-State-  
13 owned public roads and roads on tribal land.

14           “(c) ELIGIBILITY.—

15           “(1) IN GENERAL.—To obligate funds appor-  
16 tioned under section 104(b)(3) to carry out this sec-  
17 tion, a State shall have in effect a State highway  
18 safety improvement program under which the  
19 State—

20           “(A) develops, implements, and updates a  
21 State strategic highway safety plan that identi-  
22 fies and analyzes highway safety problems and  
23 opportunities as provided in subsections (a)(12)  
24 and (d);

1           “(B) produces a program of projects or  
2 strategies to reduce identified safety problems;  
3 and

4           “(C) evaluates the strategic highway safety  
5 plan on a regularly recurring basis in accord-  
6 ance with subsection (d)(1) to ensure the accu-  
7 racy of the data and priority of proposed strate-  
8 gies.

9           “(2) IDENTIFICATION AND ANALYSIS OF HIGH-  
10 WAY SAFETY PROBLEMS AND OPPORTUNITIES.—As  
11 part of the State highway safety improvement pro-  
12 gram, a State shall—

13           “(A) have in place a comprehensive safety  
14 data system with the ability to perform safety  
15 problem identification and countermeasure  
16 analysis—

17           “(i) to improve the timeliness, accu-  
18 racy, completeness, uniformity, integration,  
19 and accessibility of the safety data on all  
20 public roads, including non-State-owned  
21 public roads and roads on tribal land in  
22 the State;

23           “(ii) to evaluate the effectiveness of  
24 data improvement efforts;

1           “(iii) to link State data systems, in-  
2           cluding traffic records, with other data sys-  
3           tems within the State;

4           “(iv) to improve the compatibility and  
5           interoperability of safety data with other  
6           State transportation-related data systems  
7           and the compatibility and interoperability  
8           of State safety data systems with data sys-  
9           tems of other States and national data sys-  
10          tems;

11          “(v) to enhance the ability of the Sec-  
12          retary to observe and analyze national  
13          trends in crash occurrences, rates, out-  
14          comes, and circumstances; and

15          “(vi) to improve the collection of data  
16          on nonmotorized crashes;

17          “(B) based on the analysis required by  
18          subparagraph (A)—

19               “(i) identify hazardous locations, sec-  
20               tions, and elements (including roadside ob-  
21               stacles, railway-highway crossing needs,  
22               and unmarked or poorly marked roads)  
23               that constitute a danger to motorists (in-  
24               cluding motorecyclists), bicyclists, pedes-  
25               trians, and other highway users;



1           “(ii) using such criteria as the State  
2           determines to be appropriate, establish the  
3           relative severity of those locations, in terms  
4           of crashes, fatalities, serious injuries, traf-  
5           fic volume levels, and other relevant data;

6           “(iii) identify the number of fatalities  
7           and serious injuries on all public roads by  
8           location in the State;

9           “(iv) identify highway safety improve-  
10          ment projects on the basis of crash experi-  
11          ence, crash potential, or other data-sup-  
12          ported means; and

13          “(v) consider which projects maximize  
14          opportunities to advance safety;

15          “(C) adopt strategic and performance-  
16          based goals that—

17               “(i) address traffic safety, including  
18               behavioral and infrastructure problems and  
19               opportunities on all public roads;

20               “(ii) focus resources on areas of  
21               greatest need; and

22               “(iii) are coordinated with other State  
23               highway safety programs;

1           “(D) advance the capabilities of the State  
2 for safety data collection, analysis, and integra-  
3 tion in a manner that—

4           “(i) complements the State highway  
5 safety program under chapter 4 and the  
6 commercial vehicle safety plan under sec-  
7 tion 31102 of title 49;

8           “(ii) includes all public roads, includ-  
9 ing public non-State-owned roads and  
10 roads on tribal land;

11           “(iii) identifies hazardous locations,  
12 sections, and elements on all public roads  
13 that constitute a danger to motorists (in-  
14 cluding motorcyclists), bicyclists, pedes-  
15 trians, persons with disabilities, and other  
16 highway users;

17           “(iv) includes a means of identifying  
18 the relative severity of hazardous locations  
19 described in clause (iii) in terms of crash-  
20 es, serious injuries, fatalities, and traffic  
21 volume levels; and

22           “(v) improves the ability of the State  
23 to identify the number of fatalities and se-  
24 rious injuries on all public roads in the

1 State with a breakdown by functional clas-  
2 sification and ownership in the State;

3 “(E)(i) determine priorities for the correc-  
4 tion of hazardous road locations, sections, and  
5 elements (including railway-highway crossing  
6 improvements), as identified through safety  
7 data analysis;

8 “(ii) identify opportunities for preventing  
9 the development of such hazardous conditions;  
10 and

11 “(iii) establish and implement a schedule  
12 of highway safety improvement projects for haz-  
13 ard correction and hazard prevention; and

14 “(F)(i) establish an evaluation process to  
15 analyze and assess results achieved by highway  
16 safety improvement projects carried out in ac-  
17 cordance with procedures and criteria estab-  
18 lished by this section; and

19 “(ii) use the information obtained under  
20 clause (i) in setting priorities for highway safety  
21 improvement projects.

22 “(d) UPDATES TO STRATEGIC HIGHWAY SAFETY  
23 PLANS.—

24 “(1) ESTABLISHMENT OF REQUIREMENTS.—

1           “(A) IN GENERAL.—Not later than 1 year  
2 after the date of enactment of the MAP–21, the  
3 Secretary shall establish requirements for regu-  
4 larly recurring State updates of strategic high-  
5 way safety plans.

6           “(B) CONTENTS OF UPDATED STRATEGIC  
7 HIGHWAY SAFETY PLANS.—In establishing re-  
8 quirements under this subsection, the Secretary  
9 shall ensure that States take into consideration,  
10 with respect to updated strategic highway safe-  
11 ty plans—

12                   “(i) the findings of road safety audits;

13                   “(ii) the locations of fatalities and se-  
14 rious injuries;

15                   “(iii) the locations that do not have  
16 an empirical history of fatalities and seri-  
17 ous injuries, but possess risk factors for  
18 potential crashes;

19                   “(iv) rural roads, including all public  
20 roads, commensurate with fatality data;

21                   “(v) motor vehicle crashes that in-  
22 clude fatalities or serious injuries to pedes-  
23 trians and bicyclists;

24                   “(vi) the cost-effectiveness of improve-  
25 ments;

1           “(vii) improvements to rail-highway  
2           grade crossings; and

3           “(viii) safety on all public roads, in-  
4           cluding non-State-owned public roads and  
5           roads on tribal land.

6           “(2) APPROVAL OF UPDATED STRATEGIC HIGH-  
7           WAY SAFETY PLANS.—

8           “(A) IN GENERAL.—Each State shall—

9           “(i) update the strategic highway  
10          safety plans of the State in accordance  
11          with the requirements established by the  
12          Secretary under this subsection; and

13          “(ii) submit the updated plans to the  
14          Secretary, along with a detailed description  
15          of the process used to update the plan.

16          “(B) REQUIREMENTS FOR APPROVAL.—

17          The Secretary shall not approve the process for  
18          an updated strategic highway safety plan un-  
19          less—

20          “(i) the updated strategic highway  
21          safety plan is consistent with the require-  
22          ments of this subsection and subsection  
23          (a)(12); and

24          “(ii) the process used is consistent  
25          with the requirements of this subsection.

1           “(3) PENALTY FOR FAILURE TO HAVE AN AP-  
2           PROVED UPDATED STRATEGIC HIGHWAY SAFETY  
3           PLAN.—If a State does not have an updated stra-  
4           tegic highway safety plan with a process approved by  
5           the Secretary by August 1 of the fiscal year begin-  
6           ning after the date of establishment of the require-  
7           ments under paragraph (1)—

8                   “(A) the State shall not be eligible to re-  
9                   ceive any additional limitation pursuant to the  
10                  redistribution of the limitation on obligations  
11                  for Federal-aid highway and highway safety  
12                  construction programs that occurs after August  
13                  1 for each succeeding fiscal year until the fiscal  
14                  year during which the plan is approved; and

15                  “(B) the Secretary shall, on October 1 of  
16                  each fiscal year thereafter, transfer from funds  
17                  apportioned to the State under section  
18                  104(b)(2) an amount equal to 10 percent of the  
19                  funds so apportioned for the fiscal year for use  
20                  under the highway safety improvement program  
21                  under this section to the apportionment of the  
22                  State under section 104(b)(3) until the fiscal  
23                  year in which the plan is approved.

24           “(e) ELIGIBLE PROJECTS.—

1           “(1) IN GENERAL.—Funds apportioned to the  
2 State under section 104(b)(3) may be obligated to  
3 carry out—

4           “(A) any highway safety improvement  
5 project on any public road or publicly owned bi-  
6 cycle or pedestrian pathway or trail; or

7           “(B) as provided in subsection (f), other  
8 safety projects.

9           “(2) USE OF OTHER FUNDING FOR SAFETY.—

10           “(A) EFFECT OF SECTION.—Nothing in  
11 this section prohibits the use of funds made  
12 available under other provisions of this title for  
13 highway safety improvement projects.

14           “(B) USE OF OTHER FUNDS.—States are  
15 encouraged to address the full scope of the safe-  
16 ty needs and opportunities of the States by  
17 using funds made available under other provi-  
18 sions of this title (except a provision that spe-  
19 cifically prohibits that use).

20           “(f) FLEXIBLE FUNDING FOR STATES WITH A STRA-  
21 TEGIC HIGHWAY SAFETY PLAN.—

22           “(1) IN GENERAL.—To further the implementa-  
23 tion of a State strategic highway safety plan, a State  
24 may use up to 10 percent of the amount of funds  
25 apportioned to the State under section 104(b)(3) for

1 a fiscal year to carry out safety projects under any  
2 other section as provided in the State strategic high-  
3 way safety plan if the State certifies that—

4 “(A) the State has met needs in the State  
5 relating to railway-highway crossings for the  
6 preceding fiscal year; and

7 “(B) the funds are being used for the most  
8 effective projects to make progress toward  
9 achieving the safety performance targets of the  
10 State.

11 “(2) OTHER TRANSPORTATION AND HIGHWAY  
12 SAFETY PLANS.—Nothing in this subsection requires  
13 a State to revise any State process, plan, or program  
14 in effect on the date of enactment of the MAP–21.

15 “(g) DATA IMPROVEMENT.—

16 “(1) DEFINITION OF DATA IMPROVEMENT AC-  
17 TIVITIES.—In this subsection:

18 “(A) IN GENERAL.—The term ‘data im-  
19 provement activities’ means a project or activity  
20 to further the capacity of a State to make more  
21 informed and effective safety infrastructure in-  
22 vestment decisions.

23 “(B) INCLUSIONS.—The term ‘data im-  
24 provement activities’ includes a project or activ-  
25 ity—



1           “(i) to create, update, or enhance a  
2 highway basemap of all public roads in a  
3 State;

4           “(ii) to collect safety data, including  
5 data identified as part of the model inven-  
6 tory of roadway elements, for creation of  
7 or use on a highway basemap of all public  
8 roads in a State;

9           “(iii) to store and maintain safety  
10 data in an electronic manner;

11           “(iv) to develop analytical processes  
12 for safety data elements;

13           “(v) to acquire and implement road-  
14 way safety analysis tools; and

15           “(vi) to support the collection, mainte-  
16 nance, and sharing of safety data on all  
17 public roads and related systems associated  
18 with the analytical usage of that data.

19           “(2) APPORTIONMENT.—Of the funds appor-  
20 tioned to a State under section 104(b)(3) for a fiscal  
21 year—

22           “(A) not less than 8 percent of the funds  
23 apportioned for each of fiscal years 2012  
24 through 2013 shall be available only for data

1 improvement activities under this subsection;  
2 and

3 “(B) not less than 4 percent of the funds  
4 apportioned for fiscal year 2014 and each fiscal  
5 year thereafter shall be available only for data  
6 improvement activities under this subsection.

7 “(3) SPECIAL RULE.—A State may use funds  
8 apportioned to the State pursuant to this subsection  
9 for any project eligible under this section if the  
10 State demonstrates to the satisfaction of the Sec-  
11 retary that the State has met all of the State needs  
12 for data collection to support the State strategic  
13 highway safety plan and sufficiently addressed the  
14 data improvement activities described in paragraph  
15 (1).

16 “(4) MODEL INVENTORY OF ROADWAY ELE-  
17 MENTS.—The Secretary shall—

18 “(A) establish a subset of the model inven-  
19 tory of roadway elements that are useful for the  
20 inventory of roadway safety; and

21 “(B) ensure that States adopt and use the  
22 subset to improve data collection.

23 “(h) PERFORMANCE MEASURES AND TARGETS FOR  
24 STATE HIGHWAY SAFETY IMPROVEMENT PROGRAMS.—

1           “(1) ESTABLISHMENT OF PERFORMANCE MEAS-  
2           URES.—Not later than 1 year after the date of en-  
3           actment of the MAP-21, the Secretary shall issue  
4           guidance to States on the establishment, collection,  
5           and reporting of performance measures that re-  
6           flect—

7                   “(A) serious injuries and fatalities per ve-  
8                   hicle mile traveled;

9                   “(B) serious injuries and fatalities per cap-  
10                  ita; and

11                  “(C) the number of serious injuries and fa-  
12                  talities

13           “(2) ESTABLISHMENT OF STATE PERFORMANCE  
14           TARGETS.—Not later than 1 year after the Secretary  
15           has issued guidance to States on the establishment,  
16           collection, and reporting of performance measures,  
17           each State shall set performance targets that re-  
18           flect—

19                   “(A) serious injuries and fatalities per ve-  
20                   hicle mile traveled;

21                   “(B) serious injuries and fatalities per cap-  
22                   ita; and

23                   “(C) the number of serious injuries and fa-  
24                   talities.

25           “(i) SPECIAL RULES.—

1           “(1) HIGH-RISK RURAL ROAD SAFETY.—If the  
2           fatality rate on rural roads in a State increases over  
3           the most recent 2-year period for which data are  
4           available, that State shall be required to obligate in  
5           the next fiscal year on high risk rural roads an  
6           amount equal to at least 200 percent of the amount  
7           of funds the State received for fiscal year 2009 for  
8           high risk rural roads under subsection (f) of this  
9           section, as in effect on the day before the date of en-  
10          actment of the MAP-21.

11          “(2) RAIL-HIGHWAY GRADE CROSSINGS.—If the  
12          fatality rate at highway grade crossings in a State  
13          increases over the most recent 2-year period for  
14          which data are available, that State shall be required  
15          to obligate in the next fiscal year on rail-highway  
16          grade crossings an amount equal to 120 percent of  
17          the amount of funds the State received for fiscal  
18          year 2009 for rail-highway grade crossings under  
19          section 130(f) (as in effect on the day before the  
20          date of enactment of the MAP-21).

21          “(j) REPORTS.—

22                 “(1) IN GENERAL.—A State shall submit to the  
23                 Secretary a report that—

1           “(A) describes the progress being made to  
2 achieve the performance targets established  
3 under subsection (h);

4           “(B) describes progress being made to im-  
5 plement highway safety improvement projects  
6 under this section;

7           “(C) assesses the effectiveness of those im-  
8 provements; and

9           “(D) describes the extent to which the im-  
10 provements funded under this section have con-  
11 tributed to reducing—

12           “(i) the number and rate of fatalities  
13 on all public roads with, to the maximum  
14 extent practicable, a breakdown by func-  
15 tional classification and ownership in the  
16 State;

17           “(ii) the number and rate of serious  
18 injuries on all public roads with, to the  
19 maximum extent practicable, a breakdown  
20 by functional classification and ownership  
21 in the State; and

22           “(iii) the occurrences of fatalities and  
23 serious injuries at railway-highway cross-  
24 ings.

1           “(2) CONTENTS; SCHEDULE.—The Secretary  
2 shall establish the content and schedule for the sub-  
3 mission of the report under paragraph (1).

4           “(3) TRANSPARENCY.—The Secretary shall  
5 make strategic highway safety plans submitted  
6 under subsection (d) and reports submitted under  
7 this subsection available to the public through—

8                   “(A) the website of the Department; and

9                   “(B) such other means as the Secretary  
10 determines to be appropriate.

11           “(4) DISCOVERY AND ADMISSION INTO EVI-  
12 DENCE OF CERTAIN REPORTS, SURVEYS, AND INFOR-  
13 MATION.—Notwithstanding any other provision of  
14 law, reports, surveys, schedules, lists, or data com-  
15 piled or collected for any purpose relating to this  
16 section, shall not be subject to discovery or admitted  
17 into evidence in a Federal or State court proceeding  
18 or considered for other purposes in any action for  
19 damages arising from any occurrence at a location  
20 identified or addressed in the reports, surveys,  
21 schedules, lists, or other data.

22           “(k) STATE PERFORMANCE TARGETS.—If the Sec-  
23 retary determines that a State has not met or made sig-  
24 nificant progress toward meeting the performance targets  
25 of the State established under subsection (h) by the date

1 that is 2 years after the date of the establishment of the  
2 performance targets, the State shall—

3 “(1) use obligation authority equal to the ap-  
4 portionment of the State for the prior year under  
5 section 104(b)(3) only for highway safety improve-  
6 ment projects under this section until the Secretary  
7 determines that the State has met or made signifi-  
8 cant progress toward meeting the performance tar-  
9 gets of the State; and

10 “(2) submit annually to the Secretary, until the  
11 Secretary determines that the State has met or  
12 made significant progress toward meeting the per-  
13 formance targets of the State, an implementation  
14 plan that—

15 “(A) identifies roadway features that con-  
16 stitute a hazard to road users;

17 “(B) identifies highway safety improve-  
18 ment projects on the basis of crash experience,  
19 crash potential, or other data-supported means;

20 “(C) describes how highway safety im-  
21 provement program funds will be allocated, in-  
22 cluding projects, activities, and strategies to be  
23 implemented;

24 “(D) describes how the proposed projects,  
25 activities, and strategies funded under the State

1 highway safety improvement program will allow  
 2 the State to make progress toward achieving  
 3 the safety performance targets of the State; and

4 “(E) describes the actions the State will  
 5 undertake to meet the performance targets of  
 6 the State.

7 “(1) FEDERAL SHARE OF HIGHWAY SAFETY IM-  
 8 PROVEMENT PROJECTS.—Except as provided in sections  
 9 120 and 130, the Federal share of the cost of a highway  
 10 safety improvement project carried out with funds appor-  
 11 tioned to a State under section 104(b)(3) shall be 90 per-  
 12 cent.”.

13 **SEC. 1113. CONGESTION MITIGATION AND AIR QUALITY IM-**  
 14 **PROVEMENT PROGRAM.**

15 Section 149 of title 23, United States Code, is  
 16 amended to read as follows:

17 **“§ 149. Congestion mitigation and air quality im-**  
 18 **provement program**

19 “(a) ESTABLISHMENT.—The Secretary shall estab-  
 20 lish and implement a congestion mitigation and air quality  
 21 improvement program in accordance with this section.

22 “(b) ELIGIBLE PROJECTS.—

23 “(1) IN GENERAL.—Except as provided in sub-  
 24 section (c), a State may obligate funds apportioned  
 25 to the State for the congestion mitigation and air



1 quality improvement program under section  
2 104(b)(4) that are not reserved under subsection (l)  
3 only for a transportation project or program if the  
4 project or program is for an area in the State that  
5 is or was designated as a nonattainment area for  
6 ozone, carbon monoxide, or particulate matter under  
7 section 107(d) of the Clean Air Act (42 U.S.C.  
8 7407(d)) and classified pursuant to section 181(a),  
9 186(a), 188(a), or 188(b) of the Clean Air Act (42  
10 U.S.C. 7511(a), 7512(a), 7513(a), or 7513(b)) or is  
11 or was designated as a nonattainment area under  
12 section 107(d) of that Act after December 31, 1997,  
13 or is required to prepare, and file with the Adminis-  
14 trator of the Environmental Protection Agency,  
15 maintenance plans under the Clean Air Act (42  
16 U.S.C. 7401 et seq.); and

17 “(A)(i)(I) if the Secretary, after consulta-  
18 tion with the Administrator determines, on the  
19 basis of information published by the Environ-  
20 mental Protection Agency pursuant to subpara-  
21 graph (A) of section 108(f)(1) of the Clean Air  
22 Act (other than clause (xvi) of that subpara-  
23 graph) (42 U.S.C. 7408(f)(1)) that the project  
24 or program is likely to contribute to—

1           “(aa) the attainment of a national  
2           ambient air quality standard; or

3           “(bb) the maintenance of a national  
4           ambient air quality standard in a mainte-  
5           nance area; and

6           “(II) there exists a high level of effective-  
7           ness in reducing air pollution, in cases of  
8           projects or programs where sufficient informa-  
9           tion is available in the database established pur-  
10          suant to subsection (h) to determine the relative  
11          effectiveness of such projects or programs; or

12          “(ii) in any case in which such information  
13          is not available, if the Secretary, after such con-  
14          sultation, determines that the project or pro-  
15          gram is part of a program, method, or strategy  
16          described in such section 108(f)(1)(A);

17          “(B) if the project or program is included  
18          in a State implementation plan that has been  
19          approved pursuant to the Clean Air Act and the  
20          project will have air quality benefits;

21          “(C) to establish or operate a traffic moni-  
22          toring, management, and control facility or pro-  
23          gram, including advanced truck stop electrifica-  
24          tion systems, if the Secretary, after consultation  
25          with the Administrator, determines that the fa-

1           cility or program is likely to contribute to the  
2           attainment of a national ambient air quality  
3           standard;

4           “(D) if the program or project improves  
5           traffic flow, including projects to improve sig-  
6           nalization, construct high-occupancy vehicle  
7           lanes, improve intersections, add turning lanes,  
8           improve transportation systems management  
9           and operations that mitigate congestion and im-  
10          prove air quality, and implement intelligent  
11          transportation system strategies and such other  
12          projects that are eligible for assistance under  
13          this section on the day before the date of enact-  
14          ment of the MAP-21, including programs or  
15          projects to improve incident and emergency re-  
16          sponse or improve mobility, such as through  
17          real-time traffic, transit, and multimodal trav-  
18          eler information;

19          “(E) if the project or program involves the  
20          purchase of integrated, interoperable emergency  
21          communications equipment;

22          “(F) if the project or program is for—

23                  “(i) the purchase of diesel retrofits  
24                  that are—

1           “(I) for motor vehicles (as de-  
2           fined in section 216 of the Clean Air  
3           Act (42 U.S.C. 7550)); or

4           “(II) verified or certified tech-  
5           nologies included in the list published  
6           pursuant to subsection (f)(2), as in ef-  
7           fect on the day before the date of en-  
8           actment of the MAP-21, for nonroad  
9           vehicles and nonroad engines (as de-  
10          fined in section 216 of the Clean Air  
11          Act (42 U.S.C. 7550)) that are used  
12          in construction projects that are—

13                   “(aa) located in nonattain-  
14                   ment or maintenance areas for  
15                   ozone, PM<sub>10</sub>, or PM<sub>2.5</sub> (as de-  
16                   fined under the Clean Air Act  
17                   (42 U.S.C. 7401 et seq.)); and

18                   “(bb) funded, in whole or in  
19                   part, under this title; or

20           “(ii) the conduct of outreach activities  
21           that are designed to provide information  
22           and technical assistance to the owners and  
23           operators of diesel equipment and vehicles  
24           regarding the purchase and installation of  
25           diesel retrofits;

1           “(G) if the project or program shifts traf-  
2           fic demand to nonpeak hours or other transpor-  
3           tation modes, increases vehicle occupancy rates,  
4           or otherwise reduces demand for roads through  
5           such means as telecommuting, ridesharing,  
6           carsharing, alternative work hours, and pricing;  
7           or

8           “(H) if the Secretary, after consultation  
9           with the Administrator, determines that the  
10          project or program is likely to contribute to the  
11          attainment of a national ambient air quality  
12          standard, whether through reductions in vehicle  
13          miles traveled, fuel consumption, or through  
14          other factors.

15          “(2) LIMITATIONS.—Funds apportioned to a  
16          State under section 104(b)(4) and not reserved  
17          under subsection (1) may not be obligated for a  
18          project that will result in the construction of new ca-  
19          pacity available to single-occupant vehicles unless  
20          the project consists of a high-occupancy vehicle facil-  
21          ity available to single-occupant vehicles only at other  
22          than peak travel times or such use by single-occu-  
23          pant vehicles at peak travel times is subject to a toll.

24          “(c) STATES FLEXIBILITY.—

1           “(1) STATES WITHOUT A NONATTAINMENT  
2 AREA.—If a State does not have, and never has had,  
3 a nonattainment area designated under the Clean  
4 Air Act (42 U.S.C. 7401 et seq.) for ozone, carbon  
5 monoxide, or PM<sub>2.5</sub>, the State may use funds appor-  
6 tioned to the State under section 104(b)(4) (exclud-  
7 ing the amount of funds reserved under subsection  
8 (l)) for any project in the State that—

9           “(A) would otherwise be eligible under sub-  
10 section (b) as if the project were carried out in  
11 a nonattainment or maintenance area; or

12           “(B) is eligible under the transportation  
13 mobility program under section 133.

14           “(2) STATES WITH A NONATTAINMENT AREA.—

15           “(A) IN GENERAL.—If a State has a non-  
16 attainment area or maintenance area and re-  
17 ceived funds in fiscal year 2009 under section  
18 104(b)(2)(D), as in effect on the day before the  
19 date of enactment of the MAP–21, above the  
20 amount of funds that the State would have re-  
21 ceived based on the nonattainment and mainte-  
22 nance area population of the State under sub-  
23 paragraphs (B) and (C) of section 104(b)(2), as  
24 in effect on the day before the date of enact-  
25 ment of the MAP–21, the State may use for

1 any project that is eligible under the transpor-  
2 tation mobility program under section 133 an  
3 amount of funds apportioned to such State  
4 under section 104(b)(4) (excluding the amount  
5 of funds reserved under subsection (l)) that is  
6 equal to the product obtained by multiplying—

7 “(i) the apportioned amount to such  
8 State under section 104(b)(4) (excluding  
9 the amount of funds reserved under sub-  
10 section (l)); by

11 “(ii) the ratio calculated under para-  
12 graph (B).

13 “(B) RATIO.—For purposes of this para-  
14 graph, the ratio shall be calculated as—

15 “(i) the amount for fiscal year 2009  
16 such State was permitted by section  
17 149(c)(2), as in effect on the day before  
18 the date of enactment of the MAP–21, to  
19 obligate in any area of the State for  
20 projects eligible under section 133, as in  
21 effect on the day before the date of enact-  
22 ment of the MAP–21; bears to

23 “(ii) the total apportionment to such  
24 State for fiscal year 2009 under section

1                   104(b)(2), as in effect on the day before  
2                   the date of enactment of the MAP-21.

3                   “(3) CHANGES IN DESIGNATION.—If a new  
4                   nonattainment area is designated or a previously  
5                   designated nonattainment area is redesignated as an  
6                   attainment area in a State under the Clean Air Act  
7                   (42 U.S.C. 7401 et seq.), the Secretary shall modify  
8                   the amount such State is permitted to obligate in  
9                   any area of the State for projects eligible under sec-  
10                  tion 133.

11                  “(d) APPLICABILITY OF PLANNING REQUIRE-  
12                  MENTS.—Programming and expenditure of funds for  
13                  projects under this section shall be consistent with the re-  
14                  quirements of sections 134 and 135.

15                  “(e) PARTNERSHIPS WITH NONGOVERNMENTAL EN-  
16                  TITIES.—

17                  “(1) IN GENERAL.—Notwithstanding any other  
18                  provision of this title and in accordance with this  
19                  subsection, a metropolitan planning organization,  
20                  State transportation department, or other project  
21                  sponsor may enter into an agreement with any pub-  
22                  lic, private, or nonprofit entity to cooperatively im-  
23                  plement any project carried out with funds appor-  
24                  tioned under section 104(b)(4).



1           “(2) FORMS OF PARTICIPATION BY ENTITIES.—  
2           Participation by an entity under paragraph (1) may  
3           consist of—

4                   “(A) ownership or operation of any land,  
5                   facility, vehicle, or other physical asset associ-  
6                   ated with the project;

7                   “(B) cost sharing of any project expense;

8                   “(C) carrying out of administration, con-  
9                   struction management, project management,  
10                  project operation, or any other management or  
11                  operational duty associated with the project;  
12                  and

13                  “(D) any other form of participation ap-  
14                  proved by the Secretary.

15           “(3) ALLOCATION TO ENTITIES.—A State may  
16           allocate funds apportioned under section 104(b)(4)  
17           to an entity described in paragraph (1).

18           “(4) ALTERNATIVE FUEL PROJECTS.—In the  
19           case of a project that will provide for the use of al-  
20           ternative fuels by privately owned vehicles or vehicle  
21           fleets, activities eligible for funding under this sub-  
22           section—

23                   “(A) may include the costs of vehicle re-  
24                   fueling infrastructure, including infrastructure  
25                   that would support the development, produc-

1           tion, and use of emerging technologies that re-  
2           duce emissions of air pollutants from motor ve-  
3           hicles, and other capital investments associated  
4           with the project;

5           “(B) shall include only the incremental  
6           cost of an alternative fueled vehicle, as com-  
7           pared to a conventionally fueled vehicle, that  
8           would otherwise be borne by a private party;  
9           and

10           “(C) shall apply other governmental finan-  
11           cial purchase contributions in the calculation of  
12           net incremental cost.

13           “(5) PROHIBITION ON FEDERAL PARTICIPATION  
14           WITH RESPECT TO REQUIRED ACTIVITIES.—A Fed-  
15           eral participation payment under this subsection  
16           may not be made to an entity to fund an obligation  
17           imposed under the Clean Air Act (42 U.S.C. 7401  
18           et seq.) or any other Federal law.

19           “(f) PRIORITY CONSIDERATION.—States and metro-  
20           politan planning organizations shall give priority in areas  
21           designated as nonattainment or maintenance for PM<sub>2.5</sub>  
22           under the Clean Air Act (42 U.S.C. 7401 et seq.) in dis-  
23           tributing funds received for congestion mitigation and air  
24           quality projects and programs from apportionments under  
25           section 104(b)(4) not required to be reserved under sub-

1 section (l) to projects that are proven to reduce PM<sub>2.5</sub>,  
2 including diesel retrofits.

3 “(g) INTERAGENCY CONSULTATION.—The Secretary  
4 shall encourage States and metropolitan planning organi-  
5 zations to consult with State and local air quality agencies  
6 in nonattainment and maintenance areas on the estimated  
7 emission reductions from proposed congestion mitigation  
8 and air quality improvement programs and projects.

9 “(h) EVALUATION AND ASSESSMENT OF  
10 PROJECTS.—

11 “(1) DATABASE.—

12 “(A) IN GENERAL.—Using appropriate as-  
13 sessments of projects funded under the conges-  
14 tion mitigation and air quality program and re-  
15 sults from other research, the Secretary shall  
16 maintain and disseminate a cumulative data-  
17 base describing the impacts of the projects, in-  
18 cluding specific information about each project,  
19 such as the project name, location, sponsor,  
20 cost, and, to the extent already measured by the  
21 project sponsor, cost-effectiveness, based on re-  
22 ductions in congestion and emissions.

23 “(B) AVAILABILITY.—The database shall  
24 be published or otherwise made readily available  
25 by the Secretary in electronically accessible for-

1 mat and means, such as the Internet, for public  
2 review.

3 “(2) COST EFFECTIVENESS.—

4 “(A) IN GENERAL.—The Secretary, in con-  
5 sultation with the Administrator of the Envi-  
6 ronmental Protection Agency, shall evaluate  
7 projects on a periodic basis and develop a table  
8 or other similar medium that illustrates the  
9 cost-effectiveness of a range of project types eli-  
10 gible for funding under this section as to how  
11 the projects mitigate congestion and improve  
12 air quality.

13 “(B) CONTENTS.—The table described in  
14 subparagraph (A) shall show measures of cost-  
15 effectiveness, such as dollars per ton of emis-  
16 sions reduced, and assess those measures over  
17 a variety of timeframes to capture impacts on  
18 the planning timeframes outlined in section  
19 134.

20 “(C) USE OF TABLE.—States and metro-  
21 politan planning organizations shall consider  
22 the information in the table when selecting  
23 projects or developing performance plans under  
24 subsection (k).

25 “(i) OPTIONAL PROGRAMMATIC ELIGIBILITY.—

1           “(1) IN GENERAL.—At the discretion of a met-  
2           ropolitan planning organization, a technical assess-  
3           ment of a selected program of projects may be con-  
4           ducted through modeling or other means to dem-  
5           onstrate the emissions reduction projection required  
6           under this section.

7           “(2) APPLICABILITY.—If an assessment de-  
8           scribed in paragraph (1) successfully demonstrates  
9           an emissions reduction, all projects included in such  
10          assessment shall be eligible for obligation under this  
11          section without further demonstration of emissions  
12          reduction of individual projects included in such as-  
13          sessment.

14          “(j) SUBALLOCATION TO NONATTAINMENT AND  
15          MAINTENANCE AREAS.—

16               “(1) IN GENERAL.—An amount equal to 50  
17               percent of the amount of funds apportioned to each  
18               State under section 104(b)(4) (excluding the amount  
19               of funds reserved under subsection (l)) shall be sub-  
20               allocated for projects within each area designated as  
21               nonattainment or maintenance for the pollutants de-  
22               scribed in subsection (b).

23               “(2) DISTRIBUTION OF FUNDS.—The distribu-  
24               tion within any State of funds required to be sub-  
25               allocated under paragraph (1) to each nonattain-

1       ment or maintenance area shall be in accordance  
2       with a formula developed by each State and ap-  
3       proved by the Secretary, which shall consider the  
4       population of each such nonattainment or mainte-  
5       nance area and shall be weighted by the severity of  
6       pollution in the manner described in paragraph (6).

7           “(3) PROJECT SELECTION.—Projects under this  
8       subsection shall be selected by a State and shall be  
9       consistent with the requirements of sections 134 and  
10       135.

11           “(4) PRIORITY FOR USE OF SUBALLOCATED  
12       FUNDS IN PM<sub>2.5</sub> AREAS.—

13           “(A) IN GENERAL.—An amount equal to  
14       50 percent of the funds suballocated under  
15       paragraph (1) for a nonattainment or mainte-  
16       nance area that are based all or in part on the  
17       weighted population of such area in fine partic-  
18       ulate matter nonattainment shall be obligated  
19       to projects that reduce such fine particulate  
20       matter emissions in such area, including diesel  
21       retrofits.

22           “(B) CONSTRUCTION EQUIPMENT.—An  
23       amount equal to 30 percent of the funds re-  
24       quired to be set aside under subparagraph (A)

1 shall be obligated to carry out the objectives of  
2 section 330.

3 “(C) OBLIGATION PROCESS.—Each State  
4 or metropolitan planning organization required  
5 to obligate funds in accordance with this para-  
6 graph shall develop a process to provide funding  
7 directly to eligible entities (as defined under  
8 section 330) in order to achieve the objectives  
9 of such section.

10 “(5) FUNDS NOT SUBALLOCATED.—Except as  
11 provided in subsection (c), funds apportioned to a  
12 State under section 104(b)(4) (excluding the amount  
13 of funds reserved under subsection (l)) and not sub-  
14 allocated under paragraph (1) shall be made avail-  
15 able to such State for programming in any non-  
16 attainment or maintenance area in the State.

17 “(6) FACTORS FOR CALCULATION OF SUB-  
18 ALLOCATION.—

19 “(A) IN GENERAL.—For the purposes of  
20 paragraph (2), each State shall weight the pop-  
21 ulation of each such nonattainment or mainte-  
22 nance area by a factor of—

23 “(i) 1.0 if, at the time of the appor-  
24 tionment, the area is a maintenance area  
25 for ozone or carbon monoxide;

1           “(ii) 1.0 if, at the time of the appor-  
2           tionment, the area is classified as a mar-  
3           ginal ozone nonattainment area under sub-  
4           part 2 of part D of title I of the Clean Air  
5           Act (42 U.S.C. 7511 et seq.);

6           “(iii) 1.1 if, at the time of the appor-  
7           tionment, the area is classified as a mod-  
8           erate ozone nonattainment area under sub-  
9           part 2 of part D of title I of the Clean Air  
10          Act (42 U.S.C. 7511 et seq.);

11          “(iv) 1.2 if, at the time of the appor-  
12          tionment, the area is classified as a serious  
13          ozone nonattainment area under subpart 2  
14          of part D of title I of the Clean Air Act  
15          (42 U.S.C. 7511 et seq.);

16          “(v) 1.3 if, at the time of the appor-  
17          tionment, the area is classified as a severe  
18          ozone nonattainment area under subpart 2  
19          of part D of title I of the Clean Air Act  
20          (42 U.S.C. 7511 et seq.);

21          “(vi) 1.5 if, at the time of the appor-  
22          tionment, the area is classified as an ex-  
23          treme ozone nonattainment area under  
24          subpart 2 of part D of title I of the Clean  
25          Air Act (42 U.S.C. 7511 et seq.);



1           “(vii) 1.0 if, at the time of the appor-  
2           tionment, the area is not a nonattainment  
3           or maintenance area for ozone as described  
4           in section 149(b), but is designated under  
5           section 107 of the Clean Air Act (42  
6           U.S.C. 7407) as a nonattainment area for  
7           carbon monoxide;

8           “(viii) 1.0 if, at the time of the appor-  
9           tionment, the area is designated as non-  
10          attainment for ozone under section 107 of  
11          the Clean Air Act (42 U.S.C. 7407); or

12          “(ix) 1.2 if, at the time of the appor-  
13          tionment, the area is not a nonattainment  
14          or maintenance area as described in sec-  
15          tion 149(b) for ozone, but is designated as  
16          a nonattainment or maintenance area for  
17          fine particulate matter, 2.5 micrometers or  
18          less, under section 107 of the Clean Air  
19          Act (42 U.S.C. 7407).

20          “(B) OTHER FACTORS.—If, in addition to  
21          being designated as a nonattainment or mainte-  
22          nance area for ozone as described in section  
23          149(b), any county within the area was also  
24          designated under section 107 of the Clean Air  
25          Act (42 U.S.C. 7407) as a nonattainment or

1 maintenance area for carbon monoxide, or was  
2 designated under section 107 of the Clean Air  
3 Act (42 U.S.C. 7407) as a nonattainment or  
4 maintenance area for particulate matter, 2.5  
5 micrometers or less, or both, the weighted non-  
6 attainment or maintenance area population of  
7 the county, as determined under clauses (i)  
8 through (vi), or clause (viii), of subparagraph  
9 (A), shall be further multiplied by a factor of  
10 1.2, or a second further factor of 1.2 if the area  
11 is designated as a nonattainment or mainte-  
12 nance area for both carbon monoxide and par-  
13 ticulate matter, 2.5 micrometers or less.

14 “(7) EXCEPTIONS FOR CERTAIN STATES.—

15 “(A) A State without a nonattainment or  
16 maintenance area shall not be subject to the re-  
17 quirements of this subsection.

18 “(B) The amount of funds required to be  
19 set aside under paragraph (1) in a State that  
20 received a minimum apportionment for fiscal  
21 year 2009 under section 104(b)(2)(D), as in ef-  
22 fect on the day before the date of enactment of  
23 the MAP-21, shall be based on the amount of  
24 funds such State would otherwise have been ap-  
25 portioned under section 104(b)(4) (excluding

1 the amount of funds reserved under subsection  
2 (l) but for the minimum apportionment in fis-  
3 cal year 2009.

4 “(k) PERFORMANCE PLAN.—

5 “(1) IN GENERAL.—Each tier I metropolitan  
6 planning organization (as defined in section 134)  
7 representing a nonattainment or maintenance area  
8 shall develop a performance plan that—

9 “(A) includes an area baseline level for  
10 traffic congestion and on-road mobile source  
11 emissions for which the area is in nonattain-  
12 ment or maintenance;

13 “(B) identifies air quality and traffic con-  
14 gestion reduction target levels based on meas-  
15 ures established by the Secretary; and

16 “(C) includes a description of projects  
17 identified for funding under this section and a  
18 description of how such projects will contribute  
19 to achieving emission and traffic congestion re-  
20 duction targets.

21 “(2) UPDATED PLANS.—

22 “(A) IN GENERAL.—Performance plans  
23 shall be updated on the schedule required under  
24 paragraph (3).

1           “(B) CONTENTS.—An updated plan shall  
2           include a separate report that assesses the  
3           progress of the program of projects under the  
4           previous plan in achieving the air quality and  
5           traffic congestion targets of the previous plan.

6           “(3) RULEMAKING.—Not later than 18 months  
7           after the date of enactment of the MAP–21, the Sec-  
8           retary shall promulgate regulations to implement  
9           this subsection that identify performance measures  
10          for traffic congestion and on-road mobile source  
11          emissions, timelines for performance plans, and re-  
12          quirements under this section for assessing the im-  
13          plementation of projects carried out under this sec-  
14          tion.

15          “(l) ADDITIONAL ACTIVITIES.—

16               “(1) RESERVATION OF FUNDS.—Of the funds  
17               apportioned to a State under section 104(b)(4), a  
18               State shall reserve the amount of funds attributable  
19               to the inclusion of the 10 percent of surface trans-  
20               portation program funds apportioned to such State  
21               for fiscal year 2009 in the formula under section  
22               104(b)(4) for projects under this subsection.

23               “(2) ELIGIBLE PROJECTS.—A State may obli-  
24               gate the funds reserved under this subsection for  
25               any of the following projects or activities:

1           “(A) Transportation enhancements, as de-  
2 fined in section 101.

3           “(B) The recreational trails program under  
4 section 206.

5           “(C) The safe routes to school program  
6 under section 1404 of the SAFETEA-LU (23  
7 U.S.C. 402 note; Public Law 109–59).

8           “(D) Planning, designing, or constructing  
9 boulevards, main streets, and other roadways,  
10 including—

11           “(i) redesign of an underused high-  
12 way, particularly a highway that is no  
13 longer a principal route after construction  
14 of a bypass or Interstate System route,  
15 into a boulevard or main street that in-  
16 cludes multiple forms of transportation;

17           “(ii) new street construction that en-  
18 hances multimodal connectivity and in-  
19 cludes public transportation, pedestrian  
20 walkways, or bicycle infrastructure;

21           “(iii) redesign of a street to enhance  
22 connectivity and increase the efficiency of  
23 network performance that includes public  
24 transportation, pedestrian walkways, or bi-  
25 cycle infrastructure;

1           “(iv) redesign of a highway to support  
2 public transportation, including transit-  
3 only lanes and priority signalization for  
4 transit; or

5           “(v) construction of high-occupancy  
6 vehicle lanes and congestion reduction ac-  
7 tivities that increase the efficiency of the  
8 existing road network.

9           “(E) Providing transportation choices, in-  
10 cluding—

11           “(i) on-road and off-road trail facili-  
12 ties for pedestrians, bicyclists, and other  
13 nonmotorized forms of transportation, in-  
14 cluding sidewalks, bicycle infrastructure,  
15 pedestrian and bicycle signals, traffic  
16 calming techniques, lighting, and other  
17 safety-related infrastructure, and transpor-  
18 tation projects to achieve compliance with  
19 the Americans with Disabilities Act of  
20 1990 (42 U.S.C. 12101 et seq.);

21           “(ii) the planning, design, and con-  
22 struction of infrastructure-related projects  
23 and systems that will provide safe routes  
24 for nondrivers, including children, older

1 adults, and individuals with disabilities, to  
2 access daily needs;

3 “(iii) activities for safety and edu-  
4 cation for pedestrians and bicyclists and to  
5 encourage walking and bicycling, including  
6 efforts to encourage walking and bicycling  
7 to school and community centers;

8 “(iv) conversion and use of abandoned  
9 railroad corridors for trails for pedestrians,  
10 bicyclists, or other nonmotorized transpor-  
11 tation users; and

12 “(v) carpool, vanpool, and car share  
13 projects.

14 “(3) FLEXIBILITY OF EXCESS RESERVED  
15 FUNDING.—Beginning in the second fiscal year after  
16 the date of enactment of the MAP-21, if on August  
17 1 of that fiscal year the unobligated balance of avail-  
18 able funds apportioned to a State under section  
19 104(b)(4) and reserved by a State under this sub-  
20 section exceeds 150 percent of such reserved amount  
21 in such fiscal year, the State may thereafter obligate  
22 the amount of excess funds for any activity—

23 “(A) that is eligible to receive funding  
24 under this subsection; or

1               “(B) for which the Secretary has approved  
2               the obligation of funds for any State under this  
3               section.

4               “(4) TREATMENT OF PROJECTS.—Notwith-  
5               standing any other provision of law, projects funded  
6               under this subsection shall be treated as projects on  
7               a Federal-aid system under this chapter.”.

8   **SEC. 1114. TERRITORIAL AND PUERTO RICO HIGHWAY PRO-**  
9                               **GRAM.**

10           (a) IN GENERAL.—Section 165 of title 23, United  
11 States Code, is amended to read as follows:

12   **“§ 165. Territorial and Puerto Rico highway program**

13           “(a) DIVISION OF FUNDS.—Of funds made available  
14 in a fiscal year for the territorial and Puerto Rico highway  
15 program—

16           “(1) 75 percent shall be for the Puerto Rico  
17 highway program under subsection (b); and

18           “(2) 25 percent shall be for the territorial high-  
19 way program under subsection (c).

20   “(b) PUERTO RICO HIGHWAY PROGRAM.—

21           “(1) IN GENERAL.—The Secretary shall allo-  
22 cate funds made available to carry out this sub-  
23 section to the Commonwealth of Puerto Rico to  
24 carry out a highway program in the Commonwealth.



1           “(2) TREATMENT OF FUNDS.—Amounts made  
2 available to carry out this subsection for a fiscal  
3 year shall be administered as follows:

4                   “(A) APPORTIONMENT.—

5                           “(i) IN GENERAL.—For the purpose  
6 of imposing any penalty under this title or  
7 title 49, the amounts shall be treated as  
8 being apportioned to Puerto Rico under  
9 sections 104(b) and 144 (as in effect for  
10 fiscal year 1997) for each program funded  
11 under those sections in an amount deter-  
12 mined by multiplying—

13                                   “(I) the aggregate of the  
14 amounts for the fiscal year; by

15                                   “(II) the proportion that—

16   “(aa) the amount of funds  
17 apportioned to Puerto Rico for  
18 each such program for fiscal year  
19 1997; bears to

20   “(bb) the total amount of  
21 funds apportioned to Puerto Rico  
22 for all such programs for fiscal  
23 year 1997.

24                           “(ii) EXCEPTION.—Funds identified  
25 under clause (i) as having been appor-

1           tioned for the national highway system, the  
2           surface transportation program, and the  
3           Interstate maintenance program shall be  
4           deemed to have been apportioned 50 per-  
5           cent for the national highway performance  
6           program and 50 percent the transportation  
7           mobility program for purposes of imposing  
8           such penalties.

9           “(B) PENALTY.—The amounts treated as  
10          being apportioned to Puerto Rico under each  
11          section referred to in subparagraph (A) shall be  
12          deemed to be required to be apportioned to  
13          Puerto Rico under that section for purposes of  
14          the imposition of any penalty under this title or  
15          title 49.

16          “(C) ELIGIBLE USES OF FUNDS.—Of  
17          amounts allocated to Puerto Rico for the Puer-  
18          to Rico Highway Program for a fiscal year—

19                 “(i) at least 50 percent shall be avail-  
20                 able only for purposes eligible under sec-  
21                 tion 119;

22                 “(ii) at least 25 percent shall be avail-  
23                 able only for purposes eligible under sec-  
24                 tion 148; and

1                   “(iii) any remaining funds may be ob-  
2                   ligated for activities eligible under chapter  
3                   1.

4                   “(3) EFFECT ON APPORTIONMENTS.—Except  
5                   as otherwise specifically provided, Puerto Rico shall  
6                   not be eligible to receive funds apportioned to States  
7                   under this title.

8                   “(c) TERRITORIAL HIGHWAY PROGRAM.—

9                   “(1) TERRITORY DEFINED.—In this subsection,  
10                  the term ‘territory’ means any of the following terri-  
11                  tories of the United States:

12                   “(A) American Samoa.

13                   “(B) The Commonwealth of the Northern  
14                  Mariana Islands.

15                   “(C) Guam.

16                   “(D) The United States Virgin Islands.

17                   “(2) PROGRAM.—

18                   “(A) IN GENERAL.—Recognizing the mu-  
19                  tual benefits that will accrue to the territories  
20                  and the United States from the improvement of  
21                  highways in the territories, the Secretary may  
22                  carry out a program to assist each government  
23                  of a territory in the construction and improve-  
24                  ment of a system of arterial and collector high-

1 ways, and necessary inter-island connectors,  
2 that is—

3 “(i) designated by the Governor or  
4 chief executive officer of each territory;  
5 and

6 “(ii) approved by the Secretary.

7 “(B) FEDERAL SHARE.—The Federal  
8 share of Federal financial assistance provided  
9 to territories under this subsection shall be in  
10 accordance with section 120(g).

11 “(3) TECHNICAL ASSISTANCE.—

12 “(A) IN GENERAL.—To continue a long-  
13 range highway development program, the Sec-  
14 retary may provide technical assistance to the  
15 governments of the territories to enable the ter-  
16 ritories, on a continuing basis—

17 “(i) to engage in highway planning;

18 “(ii) to conduct environmental evalua-  
19 tions;

20 “(iii) to administer right-of-way acqui-  
21 sition and relocation assistance programs;

22 and

23 “(iv) to design, construct, operate,  
24 and maintain a system of arterial and col-

1           lector highways, including necessary inter-  
2           island connectors.

3           “(B) FORM AND TERMS OF ASSISTANCE.—  
4           Technical assistance provided under subpara-  
5           graph (A), and the terms for the sharing of in-  
6           formation among territories receiving the tech-  
7           nical assistance, shall be included in the agree-  
8           ment required by paragraph (5).

9           “(4) NONAPPLICABILITY OF CERTAIN PROVI-  
10          SIONS.—

11           “(A) IN GENERAL.—Except to the extent  
12           that provisions of this chapter are determined  
13           by the Secretary to be inconsistent with the  
14           needs of the territories and the intent of this  
15           subsection, this chapter (other than provisions  
16           of this chapter relating to the apportionment  
17           and allocation of funds) shall apply to funds  
18           made available under this subsection.

19           “(B) APPLICABLE PROVISIONS.—The  
20           agreement required by paragraph (5) for each  
21           territory shall identify the sections of this chap-  
22           ter that are applicable to that territory and the  
23           extent of the applicability of those sections.

24           “(5) AGREEMENT.—

1           “(A) IN GENERAL.—Except as provided in  
2           subparagraph (D), none of the funds made  
3           available under this subsection shall be available  
4           for obligation or expenditure with respect to  
5           any territory until the chief executive officer of  
6           the territory has entered into an agreement (in-  
7           cluding an agreement entered into under sec-  
8           tion 215 as in effect on the day before the en-  
9           actment of this section) with the Secretary pro-  
10          viding that the government of the territory  
11          shall—

12                   “(i) implement the program in accord-  
13                   ance with applicable provisions of this  
14                   chapter and paragraph (4);

15                   “(ii) design and construct a system of  
16                   arterial and collector highways, including  
17                   necessary inter-island connectors, in ac-  
18                   cordance with standards that are—

19                           “(I) appropriate for each terri-  
20                           tory; and

21                           “(II) approved by the Secretary;

22                   “(iii) provide for the maintenance of  
23                   facilities constructed or operated under  
24                   this subsection in a condition to adequately

1           serve the needs of present and future traf-  
2           fic; and

3           “(iv) implement standards for traffic  
4           operations and uniform traffic control de-  
5           vices that are approved by the Secretary.

6           “(B)   TECHNICAL    ASSISTANCE.—The  
7           agreement required by subparagraph (A)  
8           shall—

9           “(i) specify the kind of technical as-  
10          sistance to be provided under the program;

11          “(ii) include appropriate provisions re-  
12          garding information sharing among the  
13          territories; and

14          “(iii) delineate the oversight role and  
15          responsibilities of the territories and the  
16          Secretary.

17          “(C) REVIEW AND REVISION OF AGREE-  
18          MENT.—The agreement entered into under sub-  
19          paragraph (A) shall be reevaluated and, as nec-  
20          essary, revised, at least every 2 years.

21          “(D) EXISTING AGREEMENTS.—With re-  
22          spect to an agreement under this subsection or  
23          an agreement entered into under section 215 of  
24          this title as in effect on the day before the date  
25          of enactment of this subsection—

1           “(i) the agreement shall continue in  
2           force until replaced by an agreement en-  
3           tered into in accordance with subparagraph  
4           (A); and

5           “(ii) amounts made available under  
6           this subsection under the existing agree-  
7           ment shall be available for obligation or ex-  
8           penditure so long as the agreement, or the  
9           existing agreement entered into under sub-  
10          paragraph (A), is in effect.

11          “(6) ELIGIBLE USES OF FUNDS.—

12           “(A) IN GENERAL.—Funds made available  
13          under this subsection may be used only for the  
14          following projects and activities carried out in a  
15          territory:

16           “(i) Eligible transportation mobility  
17          program projects described in section  
18          133(c).

19           “(ii) Cost-effective, preventive mainte-  
20          nance consistent with section 116(d).

21           “(iii) Ferry boats, terminal facilities,  
22          and approaches, in accordance with sub-  
23          sections (b) and (c) of section 129.

24           “(iv) Engineering and economic sur-  
25          veys and investigations for the planning,



1 and the financing, of future highway pro-  
2 grams.

3 “(v) Studies of the economy, safety,  
4 and convenience of highway use.

5 “(vi) The regulation and equitable  
6 taxation of highway use.

7 “(vii) Such research and development  
8 as are necessary in connection with the  
9 planning, design, and maintenance of the  
10 highway system.

11 “(B) PROHIBITION ON USE OF FUNDS FOR  
12 ROUTINE MAINTENANCE.—None of the funds  
13 made available under this subsection shall be  
14 obligated or expended for routine maintenance.

15 “(7) LOCATION OF PROJECTS.—Territorial  
16 highway program projects (other than those de-  
17 scribed in paragraphs (2), (4), (7), (8), (14), and  
18 (19) of section 133(c)) may not be undertaken on  
19 roads functionally classified as local.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) CLERICAL AMENDMENT.—The analysis for  
22 chapter 1 of title 23, United States Code, is amend-  
23 ed by striking the item relating to section 165 and  
24 inserting the following:

“165. Territorial and Puerto Rico highway program.”.

1           (2) OBSOLETE TEXT.—Section 215 of that  
2           title, and the item relating to that section in the  
3           analysis for chapter 2, are repealed.

4 **SEC. 1115. NATIONAL FREIGHT PROGRAM.**

5           (a) IN GENERAL.—Chapter 1 of title 23, United  
6 States Code, is amended by adding at the end the fol-  
7 lowing:

8 **“§ 167. National freight program**

9           “(a) NATIONAL FREIGHT PROGRAM.—It is the policy  
10 of the United States to improve the condition and per-  
11 formance of the national freight network to ensure that  
12 the national freight network provides the foundation for  
13 the United States to compete in the global economy and  
14 achieve each goal described in subsection (b).

15           “(b) GOALS.—The goals of the national freight pro-  
16 gram are—

17                   “(1) to invest in infrastructure improvements  
18                   and to implement operational improvements that—

19                           “(A) strengthen the contribution of the na-  
20                           tional freight network to the economic competi-  
21                           tiveness of the United States;

22                           “(B) reduce congestion; and

23                           “(C) increase productivity, particularly for  
24                           domestic industries and businesses that create  
25                           high-value jobs;

1           “(2) to reduce the environmental impacts of  
2 freight movement on the national freight network;

3           “(3) to improve the safety, security, and resil-  
4 ience of freight transportation;

5           “(4) to improve the state of good repair of the  
6 national freight network;

7           “(5) to use advanced technology to improve the  
8 safety and efficiency of the national freight network;

9           “(6) to incorporate concepts of performance, in-  
10 novation, competition, and accountability into the  
11 operation and maintenance of the national freight  
12 network; and

13           “(7) to improve the economic efficiency of the  
14 national freight network.

15           “(c) ESTABLISHMENT OF PROGRAM.—

16           “(1) IN GENERAL.—The Secretary shall estab-  
17 lish and implement a national freight program in ac-  
18 cordance with this section to strategically direct  
19 Federal resources toward improved system perform-  
20 ance for efficient movement of freight on highways,  
21 including national highway system freight inter-  
22 modal connectors and aerotropolis transportation  
23 systems.

24           “(2) NETWORK COMPONENTS.—The national  
25 freight network shall consist of—

1           “(A) the primary freight network, as des-  
2           gnated by the Secretary under subsection (f)  
3           (referred to in this section as the ‘primary  
4           freight network’) as most critical to the move-  
5           ment of freight;

6           “(B) the portions of the Interstate System  
7           not designated as part of the primary freight  
8           network; and

9           “(C) critical rural freight corridors estab-  
10          lished under subsection (g).

11         “(d) USE OF APPORTIONED FUNDS.—

12           “(1) PROJECTS ON THE NATIONAL FREIGHT  
13          NETWORK.—At a minimum, following designation of  
14          the primary freight network under subsection (f), a  
15          State shall obligate funds apportioned under section  
16          104(b)(5) to improve the movement of freight on the  
17          national freight network.

18           “(2) LOCATION OF PROJECTS.—A project car-  
19          ried out using funds apportioned under paragraph  
20          (1) shall be located—

21           “(A) on the primary freight network as de-  
22          scribed under subsection (f);

23           “(B) on a portion of the Interstate System  
24          not designated as primary freight network;

1           “(C) on roads off of the Interstate System  
2 or primary freight network, if that use of funds  
3 will provide—

4                   “(i) a more significant improvement  
5 to freight movement on the Interstate Sys-  
6 tem or the primary freight network; or

7                   “(ii) critical freight access to the  
8 Interstate System or the primary freight  
9 network;

10           “(D) on a national highway system freight  
11 intermodal connector;

12           “(E) on critical rural freight corridors, as  
13 designated under subsection (g) (except that  
14 not more than 20 percent of the total antici-  
15 pated apportionment of a State under section  
16 104(b)(5) during fiscal years 2012 and 2013  
17 may be used for projects on critical rural  
18 freight corridors); or

19           “(F) within the boundaries of public and  
20 private intermodal facilities, but shall only in-  
21 clude surface infrastructure necessary to facili-  
22 tate direct intermodal interchange, transfer,  
23 and access into and out of the facility.

24           “(3) PRIMARY FREIGHT NETWORK FUNDING.—

25           Beginning for each fiscal year after the Secretary

1 designates the primary freight network, a State shall  
2 obligate from funds apportioned under section  
3 104(b)(5) for the primary freight network the lesser  
4 of—

5 “(A) an amount equal to the product ob-  
6 tained by multiplying—

7 “(i) an amount equal to 110 percent  
8 of the apportionment of the State for the  
9 fiscal year under section 104(b)(5); and

10 “(ii) the proportion that—

11 “(I) the total designated primary  
12 freight network mileage of the State;  
13 bears to

14 “(II) the sum of the designated  
15 primary freight network mileage of  
16 the State and the total Interstate sys-  
17 tem mileage of the State that is not  
18 designated as part of the primary  
19 freight network; or

20 “(B) an amount equal to the total appor-  
21 tionment of the State under section 104(b)(5).

22 “(e) ELIGIBILITY.—

23 “(1) ELIGIBLE PROJECTS.—To be eligible for  
24 funding under this section, a project shall dem-  
25 onstrate the improvement made by the project to the

1 efficient movement of freight on the national freight  
2 network.

3 “(2) FREIGHT RAIL AND MARITIME  
4 PROJECTS.—

5 “(A) IN GENERAL.—A State may obligate  
6 an amount equal to not more than 10 percent  
7 of the total apportionment to the State under  
8 section 104(b)(5) over the period of fiscal years  
9 2012 and 2013 for public or private freight rail  
10 or maritime projects.

11 “(B) ELIGIBILITY.—For a State to be eli-  
12 gible to obligate funds in the manner described  
13 in subparagraph (A), the Secretary shall concur  
14 with the State that—

15 “(i) the project for which the State  
16 seeks to obligate funds under this para-  
17 graph would make significant improvement  
18 to freight movements on the national  
19 freight network; and

20 “(ii) the public benefit of the  
21 project—

22 “(I) exceeds the Federal invest-  
23 ment; and

1                   “(II) provides a better return  
2                   than a highway project on a segment  
3                   of the primary freight network.

4                   “(3) ELIGIBLE PROJECT COSTS.—A State may  
5                   obligate funds apportioned to the State under sec-  
6                   tion 104(b)(5) for the national freight program for  
7                   any of the following costs of an eligible project:

8                   “(A) Development phase activities, includ-  
9                   ing planning, feasibility analysis, revenue fore-  
10                  casting, environmental review, preliminary engi-  
11                  neering and design work, and other  
12                  preconstruction activities.

13                  “(B) Construction, reconstruction, rehabili-  
14                  tation, acquisition of real property (including  
15                  land relating to the project and improvements  
16                  to land), construction contingencies, acquisition  
17                  of equipment, and operational improvements di-  
18                  rectly relating to improving system perform-  
19                  ance, including but not limited to any segment  
20                  of the primary freight network that falls below  
21                  the minimum level established pursuant to sec-  
22                  tion 119(f).

23                  “(C) Intelligent transportation systems  
24                  and other technology to improve the flow of  
25                  freight.



1           “(D) Efforts to reduce the environmental  
2 impacts of freight movement on the national  
3 freight network.

4           “(E) Environmental mitigation.

5           “(F) Railway-highway grade separation.

6           “(G) Geometric improvements to inter-  
7 changes and ramps.

8           “(H) Truck-only lanes.

9           “(I) Climbing and runaway truck lanes.

10          “(J) Adding or widening of shoulders.

11          “(K) Truck parking facilities eligible for  
12 funding under section 1401 of the MAP-21.

13          “(L) Real-time traffic, truck parking,  
14 roadway condition, and multimodal transpor-  
15 tation information systems.

16          “(M) Electronic screening and  
17 credentialing systems, including weigh-in-mo-  
18 tion truck inspection technologies.

19          “(N) Traffic signal optimization including  
20 synchronized and adaptive signals.

21          “(O) Work zone management and informa-  
22 tion systems.

23          “(P) Highway ramp metering.

1           “(Q) Electronic cargo and border security  
2 technologies that improve truck freight move-  
3 ment.

4           “(R) Intelligent transportation systems  
5 that would increase truck freight efficiencies in-  
6 side the boundaries of intermodal facilities.

7           “(S) Any other activities to improve the  
8 flow of freight on the national freight network.

9           “(4) OTHER ELIGIBLE COSTS.—In addition to  
10 eligible project costs, a State may use funds appor-  
11 tioned under section 104(b)(5) for the necessary  
12 costs of conducting analyses and data collection to  
13 comply with subsection (i) or diesel retrofits or alter-  
14 native fuel projects defined under section 149 for  
15 class 8 vehicles.

16           “(5) ELIGIBLE PROJECT COSTS PRIOR TO DES-  
17 IGNATION OF THE PRIMARY FREIGHT NETWORK.—  
18 Prior to the date of designation of the primary  
19 freight network, a State may obligate funds appor-  
20 tioned to the State under section 104(b)(5) to im-  
21 prove freight movement on the Interstate System  
22 for—

23           “(A) construction, reconstruction, resur-  
24 facing, restoration, and rehabilitation of seg-  
25 ments of the Interstate System;

1           “(B) operational improvements for seg-  
2           ments of the Interstate System;

3           “(C) construction of, and operational im-  
4           provements for, a Federal-aid highway not on  
5           the Interstate System, and construction of a  
6           transit project eligible for assistance under  
7           chapter 53 of title 49, United States Code, if—

8                   “(i) the highway or transit project is  
9                   in the same corridor as, and in proximity  
10                  to a highway designated as a part of, the  
11                  Interstate System;

12                  “(ii) the construction or improvements  
13                  would improve the level of service on the  
14                  Interstate System described in subpara-  
15                  graph (A) and improve freight traffic flow;  
16                  and

17                  “(iii) the construction or improve-  
18                  ments are more cost-effective for freight  
19                  movement than an improvement to the  
20                  Interstate System described in subpara-  
21                  graph (A);

22           “(D) highway safety improvements for seg-  
23           ments of the Interstate System;

24           “(E) transportation planning in accordance  
25           with sections 134 and 135;

1           “(F) the costs of conducting analysis and  
2 data collection to comply with this section;

3           “(G) truck parking facilities eligible for  
4 funding under section 1401 of the MAP-21;

5           “(H) infrastructure-based intelligent trans-  
6 portation systems capital improvements;

7           “(I) environmental restoration and pollu-  
8 tion abatement in accordance with section 328;  
9 and

10           “(J) in accordance with all applicable Fed-  
11 eral law (including regulations), participation in  
12 natural habitat and wetlands mitigation efforts  
13 relating to projects funded under this title,  
14 which may include participation in natural habi-  
15 tat and wetlands mitigation banks, contribu-  
16 tions to statewide and regional efforts to con-  
17 serve, restore, enhance, and create natural habi-  
18 tats and wetlands, and development of state-  
19 wide and regional natural habitat and wetlands  
20 conservation and mitigation plans, including  
21 any such banks, efforts, and plans developed in  
22 accordance with applicable Federal law (includ-  
23 ing regulations), on the conditions that—

24           “(i) contributions to those mitigation  
25 efforts may—

1           “(I) take place concurrent with  
2           or in advance of project construction;  
3           and

4           “(II) occur in advance of project  
5           construction only if the efforts are  
6           consistent with all applicable require-  
7           ments of Federal law (including regu-  
8           lations) and State transportation  
9           planning processes; and

10          “(ii) with respect to participation in a  
11          natural habitat or wetland mitigation ef-  
12          fort relating to a project funded under this  
13          title that has an impact that occurs within  
14          the service area of a mitigation bank, pref-  
15          erence is given, to the maximum extent  
16          practicable, to the use of the mitigation  
17          bank if the bank contains sufficient avail-  
18          able credits to offset the impact and the  
19          bank is approved in accordance with appli-  
20          cable Federal law (including regulations).

21          “(f) DESIGNATION OF PRIMARY FREIGHT NET-  
22          WORK.—

23                 “(1) INITIAL DESIGNATION OF PRIMARY  
24          FREIGHT NETWORK.—

1           “(A) DESIGNATION.—Not later than 1  
2 year after the date of enactment of this section,  
3 the Secretary shall designate a primary freight  
4 network—

5           “(i) based on an inventory of national  
6 freight volume conducted by the Adminis-  
7 trator of the Federal Highway Administra-  
8 tion, in consultation with stakeholders, in-  
9 cluding system users and transport pro-  
10 viders; and

11           “(ii) that shall be comprised of not  
12 more than 27,000 centerline miles of exist-  
13 ing roadways that are most critical to the  
14 movement of freight.

15           “(B) FACTORS FOR DESIGNATION.—In  
16 designating the primary freight network, the  
17 Secretary shall consider—

18           “(i) the origins and destinations of  
19 freight movement in the United States;

20           “(ii) the total freight tonnage moved  
21 by all modes of transportation;

22           “(iii) the percentage of annual aver-  
23 age daily truck traffic in the annual aver-  
24 age daily traffic on principal arterials;

1 “(iv) the annual average daily truck  
2 traffic on principal arterials;

3 “(v) land and maritime ports of entry;

4 “(vi) population centers; and

5 “(vii) network connectivity.

6 “(2) ADDITIONAL MILES ON PRIMARY FREIGHT  
7 NETWORK.—In addition to the miles initially des-  
8 ignated under paragraph (1), the Secretary may in-  
9 crease the number of miles designated as part of the  
10 primary freight network by not more than 3,000 ad-  
11 ditional centerline miles of roadways (which may in-  
12 clude existing or planned roads) critical to future ef-  
13 ficient movement of goods on the primary freight  
14 network.

15 “(3) REDESIGNATION OF PRIMARY FREIGHT  
16 NETWORK.—During calendar year 2015 and every  
17 10 years thereafter, using the designation factors de-  
18 scribed in paragraph (1), the Secretary shall redesi-  
19 gnate the primary freight network (including addi-  
20 tional mileage described in subsection (f)(2)).

21 “(g) CRITICAL RURAL FREIGHT CORRIDORS.—A  
22 State may designate a road within the borders of the State  
23 as a critical rural freight corridor if the road—

24 “(1) is a rural principal arterial roadway and  
25 has a minimum of 25 percent of the annual average

1 daily traffic of the road measured in passenger vehi-  
2 cle equivalent units from trucks (FHWA vehicle  
3 class 8 to 13); or

4 “(2) connects the primary freight network or  
5 Interstate System to facilities that handle more  
6 than—

7 “(A) 50,000 20-foot equivalent units per  
8 year; or

9 “(B) 500,000 tons per year of bulk com-  
10 modities.

11 “(h) NATIONAL FREIGHT STRATEGIC PLAN.—

12 “(1) INITIAL DEVELOPMENT OF NATIONAL  
13 FREIGHT STRATEGIC PLAN.—Not later than 3 years  
14 after the date of enactment of this section, the Sec-  
15 retary shall, in consultation with appropriate public  
16 and private transportation stakeholders, develop and  
17 post on the Department of Transportation public  
18 website a national freight strategic plan that shall  
19 include—

20 “(A) an assessment of the condition and  
21 performance of the national freight network;

22 “(B) an identification of highway bottle-  
23 necks on the national freight network that cre-  
24 ate significant freight congestion problems;



1           “(C) forecasts of freight volumes for the  
2           20-year period beginning in the year during  
3           which the plan is issued;

4           “(D) an identification of major trade gate-  
5           ways and national freight corridors that connect  
6           major population centers, trade gateways, and  
7           other major freight generators for current and  
8           forecasted traffic and freight volumes, the iden-  
9           tification of which shall be revised, as appro-  
10          prium, in subsequent plans;

11          “(E) an assessment of statutory, regu-  
12          latory, technological, institutional, financial,  
13          and other barriers to improved freight transpor-  
14          tation performance (including opportunities for  
15          overcoming the barriers);

16          “(F) best practices for improving the per-  
17          formance of the national freight network;

18          “(G) best practices to mitigate the impacts  
19          of freight movement on communities;

20          “(H) a process for addressing multistate  
21          projects and encouraging jurisdictions to col-  
22          laborate; and

23          “(I) strategies to improve maritime, freight  
24          rail, and freight intermodal connectivity.

1           “(2) UPDATES TO NATIONAL FREIGHT STRA-  
2           TEGIC PLAN.—Not later than 5 years after the date  
3           of completion of the first national freight strategic  
4           plan under paragraph (1), and every 5 years there-  
5           after, the Secretary shall update and repost on the  
6           Department of Transportation public website a re-  
7           vised national freight strategic plan.

8           “(i) FREIGHT PERFORMANCE TARGETS.—

9           “(1) RULEMAKING.—Not later than 2 years  
10          after the date of enactment of this section, the Sec-  
11          retary, in consultation with State departments of  
12          transportation and other appropriate public and pri-  
13          vate transportation stakeholders, shall publish a  
14          rulemaking that establishes quantifiable performance  
15          measures for freight movement on the primary  
16          freight network.

17          “(2) STATE TARGETS AND REPORTING.—Not  
18          later than 1 year after the date on which the Sec-  
19          retary publishes the rulemaking under paragraph  
20          (1), each State shall—

21                 “(A) develop and periodically update State  
22                 performance targets for freight movement on  
23                 the primary freight network—

24                         “(i) in consultation with appropriate  
25                         public and private stakeholders; and

1                   “(ii) using measures determined by  
2                   the Secretary; and

3                   “(B) for every 2-year period, submit to the  
4                   Secretary a report that contains a description  
5                   of—

6                   “(i) the progress of the State toward  
7                   meeting the targets; and

8                   “(ii) the ways in which the State is  
9                   addressing congestion at freight bottle-  
10                  necks within the State.

11                  “(3) COMPLIANCE.—

12                  “(A) PERFORMANCE TARGETS.—To obli-  
13                  gate funding apportioned under section  
14                  104(b)(5), each State shall develop performance  
15                  targets in accordance with paragraph (2).

16                  “(B) DETERMINATION OF SECRETARY.—If  
17                  the Secretary determines that a State has not  
18                  met or made significant progress toward meet-  
19                  ing the performance targets of the State by the  
20                  date that is 2 years after the date of establish-  
21                  ment of the performance targets, until the date  
22                  on which the Secretary determines that the  
23                  State has met (or has made significant progress  
24                  towards meeting) the State performance tar-  
25                  gets, the State shall submit to the Secretary, on

1 a biennial basis, a freight performance improve-  
2 ment plan that includes—

3 “(i) an identification of significant  
4 freight system trends, needs, and issues  
5 within the State;

6 “(ii) a description of the freight poli-  
7 cies and strategies that will guide the  
8 freight-related transportation investments  
9 of the State;

10 “(iii) an inventory of freight bottle-  
11 necks within the State and a description of  
12 the ways in which the State is allocating  
13 funds to improve those bottlenecks; and

14 “(iv) a description of the actions the  
15 State will undertake to meet the perform-  
16 ance targets of the State.

17 “(j) FREIGHT TRANSPORTATION CONDITIONS AND  
18 PERFORMANCE REPORTS.—Not later than 2 years after  
19 the date of enactment of this section, and biennially there-  
20 after, the Secretary shall prepare a report that contains  
21 a description of the conditions and performance of the na-  
22 tional freight network in the United States.

23 “(k) TRANSPORTATION INVESTMENT DATA AND  
24 PLANNING TOOLS.—

1           “(1) IN GENERAL.—Not later than 1 year after  
2 the date of enactment of this section, the Secretary  
3 shall—

4           “(A) begin development of new tools and  
5 improvement of existing tools or improve exist-  
6 ing tools to support an outcome-oriented, per-  
7 formance-based approach to evaluate proposed  
8 freight-related and other transportation  
9 projects, including—

10           “(i) methodologies for systematic  
11 analysis of benefits and costs;

12           “(ii) tools for ensuring that the eval-  
13 uation of freight-related and other trans-  
14 portation projects could consider safety,  
15 economic competitiveness, environmental  
16 sustainability, and system condition in the  
17 project selection process; and

18           “(iii) other elements to assist in effec-  
19 tive transportation planning;

20           “(B) identify transportation-related model  
21 data elements to support a broad range of eval-  
22 uation methods and techniques to assist in  
23 making transportation investment decisions;  
24 and

1           “(C) at a minimum, in consultation with  
2           other relevant Federal agencies, consider any  
3           improvements to existing freight flow data col-  
4           lection efforts that could reduce identified  
5           freight data gaps and deficiencies and help im-  
6           prove forecasts of freight transportation de-  
7           mand.

8           “(2) CONSULTATION.—The Secretary shall con-  
9           sult with Federal, State, and other stakeholders to  
10          develop, improve, and implement the tools and col-  
11          lect the data in paragraph (1).

12          “(l) DEFINITION OF AEROTROPOLIS TRANSPOR-  
13          TATION SYSTEM.—For the purposes of this section, the  
14          term ‘aerotropolis transportation system’ means a planned  
15          and coordinated multimodal freight and passenger trans-  
16          portation network that, as determined by the Secretary,  
17          provides efficient, cost-effective, sustainable, and inter-  
18          modal connectivity to a defined region of economic signifi-  
19          cance centered around a major airport.

20          “(m) TREATMENT OF PROJECTS.—Notwithstanding  
21          any other provision of law, projects funded under this sec-  
22          tion shall be treated as projects on a Federal-aid system  
23          under this chapter.”.

1 (b) CONFORMING AMENDMENT.—The analysis for  
 2 chapter 1 of title 23, United States Code, is amended by  
 3 adding at the end the following:

“167. National freight program.”.

4 **SEC. 1116. FEDERAL LANDS AND TRIBAL TRANSPORTATION**  
 5 **PROGRAMS.**

6 (a) IN GENERAL.—Chapter 2 of title 23, United  
 7 States Code, is amended by striking sections 201 through  
 8 204 and inserting the following:

9 **“§ 201. Federal lands and tribal transportation pro-**  
 10 **grams**

11 “(a) PURPOSE.—Recognizing the need for all public  
 12 Federal and tribal transportation facilities to be treated  
 13 under uniform policies similar to the policies that apply  
 14 to Federal-aid highways and other public transportation  
 15 facilities, the Secretary of Transportation, in collaboration  
 16 with the Secretaries of the appropriate Federal land man-  
 17 agement agencies, shall coordinate a uniform policy for all  
 18 public Federal and tribal transportation facilities that  
 19 shall apply to Federal lands transportation facilities, tribal  
 20 transportation facilities, and Federal lands access trans-  
 21 portation facilities.

22 “(b) AVAILABILITY OF FUNDS.—

23 “(1) AVAILABILITY.—Funds authorized for the  
 24 tribal transportation program, the Federal lands  
 25 transportation program, and the Federal lands ac-

1       cess program shall be available for contract upon ap-  
2       portionment, or on October 1 of the fiscal year for  
3       which the funds were authorized if no apportionment  
4       is required.

5           “(2) AMOUNT REMAINING.—Any amount re-  
6       maining unexpended for a period of 3 years after the  
7       close of the fiscal year for which the funds were au-  
8       thorized shall lapse.

9           “(3) OBLIGATIONS.—The Secretary of the de-  
10      partment responsible for the administration of funds  
11      under this subsection may incur obligations, approve  
12      projects, and enter into contracts under such author-  
13      izations, which shall be considered to be contractual  
14      obligations of the United States for the payment of  
15      the cost thereof, the funds of which shall be consid-  
16      ered to have been expended when obligated.

17           “(4) EXPENDITURE.—

18           “(A) IN GENERAL.—Any funds authorized  
19      for any fiscal year after the date of enactment  
20      of this section under the Federal lands trans-  
21      portation program, the Federal lands access  
22      program, and the tribal transportation program  
23      shall be considered to have been expended if a  
24      sum equal to the total of the sums authorized



1 for the fiscal year and previous fiscal years have  
2 been obligated.

3 “(B) CREDITED FUNDS.—Any funds de-  
4 scribed in subparagraph (A) that are released  
5 by payment of final voucher or modification of  
6 project authorizations shall be—

7 “(i) credited to the balance of unobli-  
8 gated authorizations; and

9 “(ii) immediately available for expend-  
10 iture.

11 “(5) APPLICABILITY.—This section shall not  
12 apply to funds authorized before the date of enact-  
13 ment of this paragraph.

14 “(6) CONTRACTUAL OBLIGATION.—

15 “(A) IN GENERAL.—Notwithstanding any  
16 other provision of law (including regulations),  
17 the authorization by the Secretary, or the Sec-  
18 retary of the appropriate Federal land manage-  
19 ment agency if the agency is the contracting of-  
20 fice, of engineering and related work for the de-  
21 velopment, design, and acquisition associated  
22 with a construction project, whether performed  
23 by contract or agreement authorized by law, or  
24 the approval by the Secretary of plans, speci-  
25 fications, and estimates for construction of a

1 project, shall be considered to constitute a con-  
2 tractual obligation of the Federal Government  
3 to pay the total eligible cost of—

4 “(i) any project funded under this  
5 title; and

6 “(ii) any project funded pursuant to  
7 agreements authorized by this title or any  
8 other title.

9 “(B) EFFECT.—Nothing in this para-  
10 graph—

11 “(i) affects the application of the Fed-  
12 eral share associated with the project being  
13 undertaken under this section; or

14 “(ii) modifies the point of obligation  
15 associated with Federal salaries and ex-  
16 penses.

17 “(7) FEDERAL SHARE.—

18 “(A) TRIBAL AND FEDERAL LANDS TRANS-  
19 PORTATION PROGRAM.—The Federal share of  
20 the cost of a project carried out under the Fed-  
21 eral lands transportation program or the tribal  
22 transportation program shall be 100 percent.

23 “(B) FEDERAL LANDS ACCESS PRO-  
24 GRAM.—The Federal share of the cost of a  
25 project carried out under the Federal lands ac-

1           cess program shall be determined in accordance  
2           with section 120.

3           “(c) TRANSPORTATION PLANNING.—

4           “ (1) TRANSPORTATION PLANNING PROCE-  
5           DURES.—In consultation with the Secretary of each  
6           appropriate Federal land management agency, the  
7           Secretary shall implement transportation planning  
8           procedures for Federal lands and tribal transpor-  
9           tation facilities that are consistent with the planning  
10          processes required under sections 134 and 135.

11          “(2) APPROVAL OF TRANSPORTATION IMPROVE-  
12          MENT PROGRAM.—The transportation improvement  
13          program developed as a part of the transportation  
14          planning process under this section shall be ap-  
15          proved by the Secretary.

16          “(3) INCLUSION IN OTHER PLANS.—Each re-  
17          gionally significant tribal transportation program,  
18          Federal lands transportation program, and Federal  
19          lands access program project shall be—

20                 “(A) developed in cooperation with State  
21                 and metropolitan planning organizations; and

22                 “(B) included in appropriate tribal trans-  
23                 portation program plans, Federal lands trans-  
24                 portation program plans, Federal lands access

1           program plans, State and metropolitan plans,  
2           and transportation improvement programs.

3           “(4) INCLUSION IN STATE PROGRAMS.—The ap-  
4           proved tribal transportation program, Federal lands  
5           transportation program, and Federal lands access  
6           program transportation improvement programs shall  
7           be included in appropriate State and metropolitan  
8           planning organization plans and programs without  
9           further action on the transportation improvement  
10          program.

11          “(5) ASSET MANAGEMENT.—The Secretary and  
12          the Secretary of each appropriate Federal land man-  
13          agement agency shall, to the extent appropriate, im-  
14          plement safety, bridge, pavement, and congestion  
15          management systems for facilities funded under the  
16          tribal transportation program and the Federal lands  
17          transportation program in support of asset manage-  
18          ment.

19          “(6) DATA COLLECTION.—

20                 “(A) DATA COLLECTION.—The Secretaries  
21                 of the appropriate Federal land management  
22                 agencies shall collect and report data necessary  
23                 to implement the Federal lands transportation  
24                 program, the Federal lands access program,

1 and the tribal transportation program, includ-  
2 ing—

3 “(i) inventory and condition informa-  
4 tion on Federal lands transportation facili-  
5 ties and tribal transportation facilities; and

6 “(ii) bridge inspection and inventory  
7 information on any Federal bridge open to  
8 the public.

9 “(B) STANDARDS.—The Secretary, in co-  
10 ordination with the Secretaries of the appro-  
11 priate Federal land management agencies, shall  
12 define the collection and reporting data stand-  
13 ards.

14 “(7) ADMINISTRATIVE EXPENSES.—To imple-  
15 ment the activities described in this subsection, in-  
16 cluding direct support of transportation planning ac-  
17 tivities among Federal land management agencies,  
18 the Secretary may use not more than 5 percent for  
19 each fiscal year of the funds authorized for pro-  
20 grams under sections 203 and 204.

21 “(d) REIMBURSABLE AGREEMENTS.—In carrying out  
22 work under reimbursable agreements with any State, local,  
23 or tribal government under this title, the Secretary—

1           “(1) may, without regard to any other provision  
2 of law (including regulations), record obligations  
3 against accounts receivable from the entity; and

4           “(2) shall credit amounts received from the en-  
5 tity to the appropriate account, which shall occur  
6 not later than 90 days after the date of the original  
7 request by the Secretary for payment.

8           “(e) TRANSFERS.—

9           “(1) IN GENERAL.—To enable the efficient use  
10 of funds made available for the Federal lands trans-  
11 portation program and the Federal lands access pro-  
12 gram, the funds may be transferred by the Secretary  
13 within and between each program with the concur-  
14 rence of, as appropriate—

15                   “(A) the Secretary;

16                   “(B) the affected Secretaries of the respec-  
17 tive Federal land management agencies;

18                   “(C) State departments of transportation;

19                   and

20                   “(D) local government agencies.

21           “(2) CREDIT.—The funds described in para-  
22 graph (1) shall be credited back to the loaning entity  
23 with funds that are currently available for obligation  
24 at the time of the credit.

1 **“§ 202. Tribal transportation program**

2 “(a) USE OF FUNDS.—

3 “(1) IN GENERAL.—Funds made available  
4 under the tribal transportation program shall be  
5 used by the Secretary of Transportation and the  
6 Secretary of the Interior to pay the costs of—

7 “(A)(i) transportation planning, research,  
8 maintenance, engineering, rehabilitation, res-  
9 toration, construction, and reconstruction of  
10 tribal transportation facilities;

11 “(ii) adjacent vehicular parking areas;

12 “(iii) interpretive signage;

13 “(iv) acquisition of necessary scenic ease-  
14 ments and scenic or historic sites;

15 “(v) provisions for pedestrians and bicy-  
16 cles;

17 “(vi) environmental mitigation in or adja-  
18 cent to tribal land—

19 “(I) to improve public safety and re-  
20 duce vehicle-caused wildlife mortality while  
21 maintaining habitat connectivity; and

22 “(II) to mitigate the damage to wild-  
23 life, aquatic organism passage, habitat,  
24 and ecosystem connectivity, including the  
25 costs of constructing, maintaining, replac-

1           ing, or removing culverts and bridges, as  
2           appropriate;

3           “(vii) construction and reconstruction of  
4           roadside rest areas, including sanitary and  
5           water facilities; and

6           “(viii) other appropriate public road facili-  
7           ties as determined by the Secretary;

8           “(B) operation and maintenance of transit  
9           programs and facilities that are located on, or  
10          provide access to, tribal land, or are adminis-  
11          tered by a tribal government; and

12          “(C) any transportation project eligible for  
13          assistance under this title that is located within,  
14          or that provides access to, tribal land, or is as-  
15          sociated with a tribal government.

16          “(2) CONTRACT.—In connection with an activ-  
17          ity described in paragraph (1), the Secretary and the  
18          Secretary of the Interior may enter into a contract  
19          or other appropriate agreement with respect to the  
20          activity with—

21                  “(A) a State (including a political subdivi-  
22                  sion of a State); or

23                  “(B) an Indian tribe.

24          “(3) INDIAN LABOR.—Indian labor may be em-  
25          ployed, in accordance with such rules and regula-



1 tions as may be promulgated by the Secretary of the  
2 Interior, to carry out any construction or other ac-  
3 tivity described in paragraph (1).

4 “(4) FEDERAL EMPLOYMENT.—No maximum  
5 limitation on Federal employment shall be applicable  
6 to the construction or improvement of tribal trans-  
7 portation facilities.

8 “(5) FUNDS FOR CONSTRUCTION AND IMPROVE-  
9 MENT.—All funds made available for the construc-  
10 tion and improvement of tribal transportation facili-  
11 ties shall be administered in conformity with regula-  
12 tions and agreements jointly approved by the Sec-  
13 retary and the Secretary of the Interior.

14 “(6) ADMINISTRATIVE EXPENSES.—

15 “(A) IN GENERAL.—Of the funds author-  
16 ized to be appropriated for the tribal transpor-  
17 tation program, not more than 6 percent may  
18 be used by the Secretary or the Secretary of the  
19 Interior for program management and oversight  
20 and project-related administrative expenses.

21 “(B) RESERVATION OF FUNDS.—The Sec-  
22 retary of the Interior may reserve amounts  
23 from administrative funds of the Bureau of In-  
24 dian Affairs that are associated with the tribal

1 transportation program to fund tribal technical  
2 assistance centers under section 504(b).

3 “(7) MAINTENANCE.—

4 “(A) USE OF FUNDS.—Notwithstanding  
5 any other provision of this title, of the amount  
6 of funds allocated to an Indian tribe from the  
7 tribal transportation program, for the purpose  
8 of maintenance (excluding road sealing, which  
9 shall not be subject to any limitation), the Sec-  
10 retary shall not use an amount more than the  
11 greater of—

12 “(i) an amount equal to 25 percent;

13 or

14 “(ii) \$500,000.

15 “(B) RESPONSIBILITY OF BUREAU OF IN-  
16 DIAN AFFAIRS AND SECRETARY OF THE INTE-  
17 RIOR.—

18 “(i) BUREAU OF INDIAN AFFAIRS.—

19 The Bureau of Indian Affairs shall retain  
20 primary responsibility, including annual  
21 funding request responsibility, for Bureau  
22 of Indian Affairs road maintenance pro-  
23 grams on Indian reservations.

24 “(ii) SECRETARY OF THE INTERIOR.—

25 The Secretary of the Interior shall ensure

1 that funding made available under this  
 2 subsection for maintenance of tribal trans-  
 3 portation facilities for each fiscal year is  
 4 supplementary to, and not in lieu of, any  
 5 obligation of funds by the Bureau of In-  
 6 dian Affairs for road maintenance pro-  
 7 grams on Indian reservations.

8 “(C) TRIBAL-STATE ROAD MAINTENANCE  
 9 AGREEMENTS.—

10 “(i) IN GENERAL.—An Indian tribe  
 11 and a State may enter into a road mainte-  
 12 nance agreement under which an Indian  
 13 tribe shall assume the responsibility of the  
 14 State for—

15 “(I) tribal transportation facili-  
 16 ties; and

17 “(II) roads providing access to  
 18 tribal transportation facilities.

19 “(ii) REQUIREMENTS.—Agreements  
 20 entered into under clause (i) shall—

21 “(I) be negotiated between the  
 22 State and the Indian tribe; and

23 “(II) not require the approval of  
 24 the Secretary.

25 “(8) COOPERATION.—

1           “(A) IN GENERAL.—The cooperation of  
2 States, counties, or other local subdivisions may  
3 be accepted in construction and improvement.

4           “(B) FUNDS RECEIVED.—Any funds re-  
5 ceived from a State, county, or local subdivision  
6 shall be credited to appropriations available for  
7 the tribal transportation program.

8           “(9) COMPETITIVE BIDDING.—

9           “(A) CONSTRUCTION.—

10           “(i) IN GENERAL.—Subject to clause  
11 (ii) and subparagraph (B), construction of  
12 each project shall be performed by contract  
13 awarded by competitive bidding.

14           “(ii) EXCEPTION.—Clause (i) shall  
15 not apply if the Secretary or the Secretary  
16 of the Interior affirmatively finds that,  
17 under the circumstances relating to the  
18 project, a different method is in the public  
19 interest.

20           “(B) APPLICABILITY.—Notwithstanding  
21 subparagraph (A), section 23 of the Act of  
22 June 25, 1910 (25 U.S.C. 47) and section 7(b)  
23 of the Indian Self-Determination and Education  
24 Assistance Act (25 U.S.C. 450e(b)) shall apply  
25 to all funds administered by the Secretary of

1 the Interior that are appropriated for the con-  
2 struction and improvement of tribal transpor-  
3 tation facilities.

4 “(b) FUNDS DISTRIBUTION.—

5 “(1) NATIONAL TRIBAL TRANSPORTATION FA-  
6 CILITY INVENTORY.—

7 “(A) IN GENERAL.—The Secretary of the  
8 Interior, in cooperation with the Secretary, shall  
9 maintain a comprehensive national inventory of  
10 tribal transportation facilities that are eligible  
11 for assistance under the tribal transportation  
12 program.

13 “(B) TRANSPORTATION FACILITIES IN-  
14 CLUDED IN THE INVENTORY.—For purposes of  
15 identifying the tribal transportation system and  
16 determining the relative transportation needs  
17 among Indian tribes, the Secretary shall in-  
18 clude, at a minimum, transportation facilities  
19 that are eligible for assistance under the tribal  
20 transportation program that an Indian tribe  
21 has requested, including facilities that—

22 “(i) were included in the Bureau of  
23 Indian Affairs system inventory prior to  
24 October 1, 2004;

1           “(ii) are owned by an Indian tribal  
2 government;

3           “(iii) are owned by the Bureau of In-  
4 dian Affairs;

5           “(iv) were constructed or recon-  
6 structed with funds from the Highway Ac-  
7 count of the Transportation Trust Fund  
8 under the Indian reservation roads pro-  
9 gram since 1983;

10           “(v) are public roads or bridges within  
11 the exterior boundary of Indian reserva-  
12 tions, Alaska Native villages, and other  
13 recognized Indian communities (including  
14 communities in former Indian reservations  
15 in the State of Oklahoma) in which the  
16 majority of residents are American Indians  
17 or Alaska Natives; or

18           “(vi) are primary access routes pro-  
19 posed by tribal governments, including  
20 roads between villages, roads to landfills,  
21 roads to drinking water sources, roads to  
22 natural resources identified for economic  
23 development, and roads that provide access  
24 to intermodal terminals, such as airports,  
25 harbors, or boat landings.

1           “(C) LIMITATION ON PRIMARY ACCESS  
2 ROUTES.—For purposes of this paragraph, a  
3 proposed primary access route is the shortest  
4 practicable route connecting 2 points of the pro-  
5 posed route.

6           “(D) ADDITIONAL FACILITIES.—Nothing  
7 in this paragraph precludes the Secretary from  
8 including additional transportation facilities  
9 that are eligible for funding under the tribal  
10 transportation program in the inventory used  
11 for the national funding allocation if such addi-  
12 tional facilities are included in the inventory in  
13 a uniform and consistent manner nationally.

14           “(E) BRIDGES.—All bridges in the inven-  
15 tory shall be recorded in the national bridge in-  
16 ventory administered by the Secretary under  
17 section 144.

18           “(2) REGULATIONS.—Notwithstanding sections  
19 563(a) and 565(a) of title 5, the Secretary of the In-  
20 terior shall maintain any regulations governing the  
21 tribal transportation program.

22           “(3) BASIS FOR FUNDING FORMULA.—

23           “(A) BASIS.—

24           “(i) IN GENERAL.—After making the  
25 set asides authorized under subsections

1 (a)(6), (c), (d), and (e) on October 1 of  
2 each fiscal year, the Secretary shall dis-  
3 tribute the remainder authorized to be ap-  
4 propriated for the tribal transportation  
5 program under this section among Indian  
6 tribes as follows:

7 “(I) For fiscal year 2012—

8 “(aa) 50 percent, equal to  
9 the ratio that the amount allo-  
10 cated to each tribe for fiscal year  
11 2011 bears to the total amount  
12 allocated to all tribes for that fis-  
13 cal year; and

14 “(bb) the remainder using  
15 tribal shares as described in sub-  
16 paragraphs (B) and (C).

17 “(II) For fiscal year 2013 and  
18 thereafter, using tribal shares as de-  
19 scribed in subparagraphs (B) and (C).

20 “(ii) TRIBAL HIGH PRIORITY  
21 PROJECTS.—The High Priority Projects  
22 program as included in the Tribal Trans-  
23 portation Allocation Methodology of part  
24 170 of title 25, Code of Federal Regula-  
25 tions (as in effect on the date of enactment



1 of the MAP-21), shall not continue in ef-  
2 fect.

3 “(B) TRIBAL SHARES.—Tribal shares  
4 under this program shall be determined using  
5 the national tribal transportation facility inven-  
6 tory as calculated for fiscal year 2012, and the  
7 most recent data on American Indian and Alas-  
8 ka Native population within each Indian tribe’s  
9 American Indian/Alaska Native Reservation or  
10 Statistical Area, as computed under the Native  
11 American Housing Assistance and Self-Deter-  
12 mination Act of 1996 (25 U.S.C. 4101 et seq.),  
13 in the following manner:

14 “(i) 20 percent in the ratio that the  
15 total eligible lane mileage in each tribe  
16 bears to the total eligible lane mileage of  
17 all American Indians and Alaskan Natives.  
18 For the purposes of this calculation—

19 “(I) eligible lane mileage shall be  
20 computed based on the inventory de-  
21 scribed in paragraph (1), using only  
22 facilities included in the inventory de-  
23 scribed in clause (i), (ii), or (iii) of  
24 paragraph (1)(B); and

1                   “(II) paved roads and gravel sur-  
2                   faced roads are deemed to equal 2  
3                   lane miles per mile of inventory, and  
4                   earth surfaced roads and unimproved  
5                   roads shall be deemed to equal 1 lane  
6                   mile per mile of inventory.

7                   “(ii) 40 percent in the ratio that the  
8                   total population in each tribe bears to the  
9                   total population of all American Indians  
10                  and Alaskan Natives.

11                  “(iii) 40 percent shall be divided  
12                  equally among each Bureau of Indian Af-  
13                  fairs region for distribution of tribal shares  
14                  as follows:

15                         “(I)  $\frac{1}{4}$  of 1 percent shall be dis-  
16                         tributed equally among Indian tribes  
17                         with populations of 1 to 25.

18                         “(II)  $\frac{3}{4}$  of 1 percent shall be dis-  
19                         tributed equally among Indian tribes  
20                         with populations of 26 to 100.

21                         “(III)  $3\frac{3}{4}$  percent shall be dis-  
22                         tributed equally among Indian tribes  
23                         with populations of 101 to 1,000.

1           “(IV) 20 percent shall be distrib-  
2           uted equally among Indian tribes with  
3           populations of 1,001 to 10,000.

4           “(V) 74<sup>3</sup>/<sub>4</sub> percent shall be dis-  
5           tributed equally among Indian tribes  
6           with populations of 10,001 to 60,000  
7           where 3 or more Indian tribes occupy  
8           this category in a single Bureau of In-  
9           dian Affairs region, and Bureau of In-  
10          dian Affairs regions containing less  
11          than 3 Indian tribes in this category  
12          shall receive funding in accordance  
13          with subclause (IV) and clause (iv).

14          “(VI) 1/2 of 1 percent shall be  
15          distributed equally among Indian  
16          tribes with populations of 60,001 or  
17          more.

18          “(iv) For a Bureau of Indian Affairs  
19          region that has no Indian tribes meeting  
20          the population criteria under 1 or more of  
21          subclauses (I) through (VI) of clause (iii),  
22          the region shall redistribute any funds sub-  
23          ject to such clause or clauses among any  
24          such clauses for which the region has In-  
25          dian tribes meeting such criteria propor-

1 tionally in accordance with the percentages  
2 listed in such clauses until such funds are  
3 completely distributed.

4 “(C) TRIBAL SUPPLEMENTAL FUNDING.—

5 “(i) TRIBAL SUPPLEMENTAL FUNDING  
6 AMOUNT.—Of funds made available for  
7 each fiscal year for the tribal transpor-  
8 tation program, the Secretary shall set  
9 aside the following amount for a tribal  
10 supplemental program:

11 “(I) If the amount made avail-  
12 able for the tribal transportation pro-  
13 gram is less than or equal to  
14 \$275,000,000, 10 percent of such  
15 amount.

16 “(II) If the amount made avail-  
17 able for the tribal transportation pro-  
18 gram exceeds \$275,000,000—

19 “(aa) \$27,500,000; plus

20 “(bb) 12.5 percent of the  
21 amount made available for the  
22 tribal transportation program in  
23 excess of \$275,000,000.

1           “(ii) TRIBAL SUPPLEMENTAL ALLOCA-  
2           TION.—The Secretary shall distribute trib-  
3           al supplemental funds as follows:

4                   “(I) DISTRIBUTION AMONG RE-  
5                   GIONS.—Of the amounts set aside  
6                   under clause (i), the Secretary shall  
7                   distribute to each region of the Bu-  
8                   reau of Indian Affairs a share of trib-  
9                   al supplemental funds in proportion to  
10                  the regional total of tribal shares  
11                  based on the cumulative tribal shares  
12                  of all Indian tribes within such region  
13                  under subparagraph (B).

14                  “(II) DISTRIBUTION WITHIN A  
15                  REGION.—Of the amount that a re-  
16                  gion receives under subclause (I), the  
17                  Secretary shall distribute tribal sup-  
18                  plemental funding among Indian  
19                  tribes within such region as follows:

20                          “(aa) TRIBAL SUPPLE-  
21                          MENTAL AMOUNTS.—The Sec-  
22                          retary shall determine—

23                                  “(AA) which such In-  
24                                  dian tribes would be entitled  
25                                  under subparagraph (A) to

1 receive in a fiscal year less  
2 funding than they would re-  
3 ceive in fiscal year 2011  
4 pursuant to the Tribal  
5 Transportation Allocation  
6 Methodology described in  
7 subpart C of part 170 of  
8 title 25, Code of Federal  
9 Regulations (as in effect on  
10 the date of enactment of the  
11 MAP-21); and

12 “(BB) the combined  
13 amount that such Indian  
14 tribes would be entitled to  
15 receive in fiscal year 2011  
16 pursuant to such Tribal  
17 Transportation Allocation  
18 Methodology in excess of the  
19 amount that they would be  
20 entitled to receive in the fis-  
21 cal year under subparagraph  
22 (B); and

23 “(bb) Subject to subclause  
24 (III), distribute to each Indian  
25 tribe that meets the criteria de-

1           scribed in item (aa)(AA) a share  
2           of funding under this subpara-  
3           graph in proportion to the share  
4           of the combined amount deter-  
5           mined under item (aa)(BB) at-  
6           tributable to such Indian tribe.

7           “(III) CEILING.—An Indian tribe  
8           may not receive under subclause (II)  
9           and based on its tribal share under  
10          subparagraph (A) a combined amount  
11          that exceeds the amount that such In-  
12          dian tribe would be entitled to receive  
13          in fiscal year 2011 pursuant to the  
14          Tribal Transportation Allocation  
15          Methodology described in subpart C of  
16          part 170 of title 25, Code of Federal  
17          Regulations (as in effect on the date  
18          of enactment of the MAP-21).

19          “(IV) OTHER AMOUNTS.—If the  
20          amount made available for a region  
21          under subclause (I) exceeds the  
22          amount distributed among Indian  
23          tribes within that region under sub-  
24          clause (II), the Secretary shall dis-  
25          tribute the remainder of such region’s

1 funding under such subclause among  
2 all Indian tribes in that region in pro-  
3 portion to the combined amount that  
4 each such Indian tribe received under  
5 subparagraph (A) and subclauses (I),  
6 (II), and (III).

7 “(4) TRANSFERRED FUNDS.—

8 “(A) IN GENERAL.—Not later than 30  
9 days after the date on which funds are made  
10 available to the Secretary of the Interior under  
11 this paragraph, the funds shall be distributed  
12 to, and made available for immediate use by, el-  
13 igible Indian tribes, in accordance with the for-  
14 mula for distribution of funds under the tribal  
15 transportation program.

16 “(B) USE OF FUNDS.—Notwithstanding  
17 any other provision of this section, funds made  
18 available to Indian tribes for tribal transpor-  
19 tation facilities shall be expended on projects  
20 identified in a transportation improvement pro-  
21 gram approved by the Secretary.

22 “(5) HEALTH AND SAFETY ASSURANCES.—Not-  
23 withstanding any other provision of law, an Indian  
24 tribal government may approve plans, specifications,  
25 and estimates and commence road and bridge con-



1 construction with funds made available from the tribal  
2 transportation program through a contract or agree-  
3 ment under Indian Self-Determination and Edu-  
4 cation Assistance Act (25 U.S.C. 450 et seq.), if the  
5 Indian tribal government—

6 “(A) provides assurances in the contract or  
7 agreement that the construction will meet or ex-  
8 ceed applicable health and safety standards;

9 “(B) obtains the advance review of the  
10 plans and specifications from a State-licensed  
11 civil engineer that has certified that the plans  
12 and specifications meet or exceed the applicable  
13 health and safety standards; and

14 “(C) provides a copy of the certification  
15 under subparagraph (A) to the Deputy Assist-  
16 ant Secretary for Tribal Government Affairs,  
17 Department of Transportation, or the Assistant  
18 Secretary for Indian Affairs, Department of the  
19 Interior, as appropriate.

20 “(6) CONTRACTS AND AGREEMENTS WITH IN-  
21 DIAN TRIBES.—

22 “(A) IN GENERAL.—Notwithstanding any  
23 other provision of law or any interagency agree-  
24 ment, program guideline, manual, or policy di-  
25 rective, all funds made available through the

1 Secretary of the Interior under this chapter and  
2 section 125(e) for tribal transportation facilities  
3 to pay for the costs of programs, services, func-  
4 tions, and activities, or portions of programs,  
5 services, functions, or activities, that are specifi-  
6 cally or functionally related to the cost of plan-  
7 ning, research, engineering, and construction of  
8 any tribal transportation facility shall be made  
9 available, upon request of the Indian tribal gov-  
10 ernment, to the Indian tribal government for  
11 contracts and agreements for such planning, re-  
12 search, engineering, and construction in accord-  
13 ance with Indian Self-Determination and Edu-  
14 cation Assistance Act (25 U.S.C. 450 et seq.).

15 “(B) EXCLUSION OF AGENCY PARTICIPA-  
16 TION.—All funds, including contract support  
17 costs, for programs, functions, services, or ac-  
18 tivities, or portions of programs, services, func-  
19 tions, or activities, including supportive admin-  
20 istrative functions that are otherwise  
21 contractible to which subparagraph (A) applies,  
22 shall be paid in accordance with subparagraph  
23 (A), without regard to the organizational level  
24 at which the Department of the Interior has

1           previously carried out such programs, functions,  
2           services, or activities.

3           “(7) CONTRACTS AND AGREEMENTS WITH IN-  
4       DIAN TRIBES.—

5                   “(A) IN GENERAL.—Notwithstanding any  
6           other provision of law or any interagency agree-  
7           ment, program guideline, manual, or policy di-  
8           rective, all funds made available through the  
9           Secretary of the Interior to an Indian tribal  
10          government under this chapter for a tribal  
11          transportation facility program or project shall  
12          be made available, on the request of the Indian  
13          tribal government, to the Indian tribal govern-  
14          ment for use in carrying out, in accordance  
15          with the Indian Self-Determination and Edu-  
16          cation Assistance Act (25 U.S.C. 450 et seq.),  
17          contracts and agreements for the planning, re-  
18          search, design, engineering, construction, and  
19          maintenance relating to the program or project.

20                   “(B) EXCLUSION OF AGENCY PARTICIPA-  
21          TION.—In accordance with subparagraph (A),  
22          all funds, including contract support costs, for  
23          a program or project to which subparagraph  
24          (A) applies shall be paid to the Indian tribal  
25          government without regard to the organiza-

1 tional level at which the Department of the In-  
2 terior has previously carried out, or the Depart-  
3 ment of Transportation has previously carried  
4 out under the tribal transportation program,  
5 the programs, functions, services, or activities  
6 involved.

7 “(C) CONSORTIA.—Two or more Indian  
8 tribes that are otherwise eligible to participate  
9 in a program or project to which this chapter  
10 applies may form a consortium to be considered  
11 as a single Indian tribe for the purpose of par-  
12 ticipating in the project under this section.

13 “(D) SECRETARY AS SIGNATORY.—Not-  
14 withstanding any other provision of law, the  
15 Secretary is authorized to enter into a funding  
16 agreement with an Indian tribal government to  
17 carry out a tribal transportation facility pro-  
18 gram or project under subparagraph (A) that is  
19 located on an Indian reservation or provides ac-  
20 cess to the reservation or a community of the  
21 Indian tribe.

22 “(E) FUNDING.—The amount an Indian  
23 tribal government receives for a program or  
24 project under subparagraph (A) shall equal the  
25 sum of the funding that the Indian tribal gov-

1           ernment would otherwise receive for the pro-  
2           gram or project in accordance with the funding  
3           formula established under this subsection and  
4           such additional amounts as the Secretary deter-  
5           mines equal the amounts that would have been  
6           withheld for the costs of the Bureau of Indian  
7           Affairs for administration of the program or  
8           project.

9           “(F) ELIGIBILITY.—

10           “(i) IN GENERAL.—Subject to clause  
11           (ii) and the approval of the Secretary,  
12           funds may be made available under sub-  
13           paragraph (A) to an Indian tribal govern-  
14           ment for a program or project in a fiscal  
15           year only if the Indian tribal government  
16           requesting such funds demonstrates to the  
17           satisfaction of the Secretary financial sta-  
18           bility and financial management capability  
19           during the 3 fiscal years immediately pre-  
20           ceding the fiscal year for which the request  
21           is being made.

22           “(ii) CONSIDERATIONS.—An Indian  
23           tribal government that had no uncorrected  
24           significant and material audit exceptions in  
25           the required annual audit of the contracts

1 or self-governance funding agreements  
2 made by the Indian tribe with any Federal  
3 agency under the Indian Self-Determina-  
4 tion and Education Assistance Act (25  
5 U.S.C. 450 et seq.) during the 3-fiscal year  
6 period referred in clause (i) shall be con-  
7 clusive evidence of the financial stability  
8 and financial management capability of the  
9 Indian tribe for purposes of clause (i).

10 “(G) ASSUMPTION OF FUNCTIONS AND DU-  
11 TIES.—An Indian tribal government receiving  
12 funding under subparagraph (A) for a program  
13 or project shall assume all functions and duties  
14 that the Secretary of the Interior would have  
15 performed with respect to a program or project  
16 under this chapter, other than those functions  
17 and duties that inherently cannot be legally  
18 transferred under the Indian Self-Determina-  
19 tion and Education Assistance Act (25 U.S.C.  
20 450 et seq.).

21 “(H) POWERS.—An Indian tribal govern-  
22 ment receiving funding under subparagraph (A)  
23 for a program or project shall have all powers  
24 that the Secretary of the Interior would have  
25 exercised in administering the funds transferred

1 to the Indian tribal government for such pro-  
2 gram or project under this section if the funds  
3 had not been transferred, except to the extent  
4 that such powers are powers that inherently  
5 cannot be legally transferred under the Indian  
6 Self-Determination and Education Assistance  
7 Act (25 U.S.C. 450 et seq.).

8 “(I) DISPUTE RESOLUTION.—In the event  
9 of a disagreement between the Secretary or the  
10 Secretary of the Interior and an Indian tribe  
11 over whether a particular function, duty, or  
12 power may be lawfully transferred to the Indian  
13 tribe under the Indian Self-Determination and  
14 Education Assistance Act (25 U.S.C. 450 et  
15 seq.), the Indian tribe shall have the right to  
16 pursue all alternative dispute resolution and ap-  
17 peal procedures authorized by that Act, includ-  
18 ing regulations issued to carry out the Act.

19 “(J) TERMINATION OF CONTRACT OR  
20 AGREEMENT.—On the date of the termination  
21 of a contract or agreement under this section  
22 by an Indian tribal government, the Secretary  
23 shall transfer all funds that would have been al-  
24 located to the Indian tribal government under  
25 the contract or agreement to the Secretary of

1           the Interior to provide continued transportation  
2           services in accordance with applicable law.

3           “(c) PLANNING.—

4           “(1) IN GENERAL.—For each fiscal year, not  
5           more than 2 percent of the funds made available for  
6           the tribal transportation program shall be allocated  
7           among Indian tribal governments that apply for  
8           transportation planning pursuant to the Indian Self-  
9           Determination and Education Assistance Act (25  
10          U.S.C. 450 et seq.).

11          “(2) REQUIREMENT.—An Indian tribal govern-  
12          ment, in cooperation with the Secretary of the Inte-  
13          rior and, as appropriate, with a State, local govern-  
14          ment, or metropolitan planning organization, shall  
15          carry out a transportation planning process in ac-  
16          cordance with section 201(c).

17          “(3) SELECTION AND APPROVAL OF  
18          PROJECTS.—A project funded under this section  
19          shall be—

20                  “(A) selected by the Indian tribal govern-  
21                  ment from the transportation improvement pro-  
22                  gram; and

23                  “(B) subject to the approval of the Sec-  
24                  retary of the Interior and the Secretary.



1       “(d)     TRIBAL     TRANSPORTATION     FACILITY  
2 BRIDGES.—

3           “(1) NATIONWIDE PRIORITY PROGRAM.—The  
4 Secretary shall maintain a nationwide priority pro-  
5 gram for improving deficient bridges eligible for the  
6 tribal transportation program.

7           “(2) FUNDING.—Before making any distribu-  
8 tion under subsection (b), the Secretary shall set  
9 aside not more than 2 percent of the funds made  
10 available under the tribal transportation program for  
11 each fiscal year to be allocated—

12           “(A) to carry out any planning, design, en-  
13 gineering, preconstruction, construction, and in-  
14 spection of a project to replace, rehabilitate,  
15 seismically retrofit, paint, apply calcium magne-  
16 sium acetate, sodium acetate/formate, or other  
17 environmentally acceptable, minimally corrosive  
18 anti-icing and deicing composition; or

19           “(B) to implement any countermeasure for  
20 deficient tribal transportation facility bridges,  
21 including multiple-pipe culverts.

22           “(3) ELIGIBLE BRIDGES.—To be eligible to re-  
23 ceive funding under this subsection, a bridge de-  
24 scribed in paragraph (1) shall—

1           “(A) have an opening of not less than 20  
2           feet;

3           “(B) be classified as a tribal transpor-  
4           tation facility; and

5           “(C) be structurally deficient or function-  
6           ally obsolete.

7           “(4) APPROVAL REQUIREMENT.—The Secretary  
8           may make funds available under this subsection for  
9           preliminary engineering, construction, and construc-  
10          tion engineering activities after approval of required  
11          documentation and verification of eligibility in ac-  
12          cordance with this title.

13          “(e) SAFETY.—

14           “(1) FUNDING.—Before making any distribu-  
15           tion under subsection (b), the Secretary shall set  
16           aside not more than 2 percent of the funds made  
17           available under the tribal transportation program for  
18           each fiscal year to be allocated based on an identi-  
19           fication and analysis of highway safety issues and  
20           opportunities on tribal land, as determined by the  
21           Secretary, on application of the Indian tribal govern-  
22           ments for eligible projects described in section  
23           148(a)(4).

24           “(2) PROJECT SELECTION.—An Indian tribal  
25           government, in cooperation with the Secretary of the

1 Interior and, as appropriate, with a State, local gov-  
2 ernment, or metropolitan planning organization,  
3 shall select projects from the transportation im-  
4 provement program, subject to the approval of the  
5 Secretary and the Secretary of the Interior.

6 “(f) FEDERAL-AID ELIGIBLE PROJECTS.—Before ap-  
7 proving as a project on a tribal transportation facility any  
8 project eligible for funds apportioned under section 104  
9 in a State, the Secretary shall, for projects on tribal trans-  
10 portation facilities, determine that the obligation of funds  
11 for the project is supplementary to and not in lieu of the  
12 obligation of a fair and equitable share of funds appor-  
13 tioned to the State under section 104.

14 **“§ 203. Federal lands transportation program**

15 “(a) USE OF FUNDS.—

16 “(1) IN GENERAL.—Funds made available  
17 under the Federal lands transportation program  
18 shall be used by the Secretary of Transportation and  
19 the Secretary of the appropriate Federal land man-  
20 agement agency to pay the costs of—

21 “(A) program administration, transpor-  
22 tation planning, research, preventive mainte-  
23 nance, engineering, rehabilitation, restoration,  
24 construction, and reconstruction of Federal  
25 lands transportation facilities, and—

1 “(i) adjacent vehicular parking areas;

2 “(ii) acquisition of necessary scenic  
3 easements and scenic or historic sites;

4 “(iii) provision for pedestrians and bi-  
5 cycles;

6 “(iv) environmental mitigation in or  
7 adjacent to Federal land open to the pub-  
8 lic—

9 “(I) to improve public safety and  
10 reduce vehicle-caused wildlife mor-  
11 tality while maintaining habitat  
12 connectivity; and

13 “(II) to mitigate the damage to  
14 wildlife, aquatic organism passage,  
15 habitat, and ecosystem connectivity,  
16 including the costs of constructing,  
17 maintaining, replacing, or removing  
18 culverts and bridges, as appropriate;

19 “(v) construction and reconstruction  
20 of roadside rest areas, including sanitary  
21 and water facilities;

22 “(vi) congestion mitigation; and

23 “(vii) other appropriate public road  
24 facilities, as determined by the Secretary;

1           “(B) operation and maintenance of transit  
2 facilities; and

3           “(C) any transportation project eligible for  
4 assistance under this title that is on a public  
5 road within or adjacent to, or that provides ac-  
6 cess to, Federal lands open to the public.

7           “(2) CONTRACT.—In connection with an activ-  
8 ity described in paragraph (1), the Secretary and the  
9 Secretary of the appropriate Federal land manage-  
10 ment agency may enter into a contract or other ap-  
11 propriate agreement with respect to the activity  
12 with—

13           “(A) a State (including a political subdivi-  
14 sion of a State); or

15           “(B) an Indian tribe.

16           “(3) ADMINISTRATION.—All appropriations for  
17 the construction and improvement of Federal lands  
18 transportation facilities shall be administered in con-  
19 formity with regulations and agreements jointly ap-  
20 proved by the Secretary and the Secretary of the ap-  
21 propriate Federal land managing agency.

22           “(4) COOPERATION.—

23           “(A) IN GENERAL.—The cooperation of  
24 States, counties, or other local subdivisions may  
25 be accepted in construction and improvement.

1           “(B) FUNDS RECEIVED.—Any funds re-  
2           ceived from a State, county, or local subdivision  
3           shall be credited to appropriations available for  
4           the class of Federal lands transportation facili-  
5           ties to which the funds were contributed.

6           “(5) COMPETITIVE BIDDING.—

7           “(A) IN GENERAL.—Subject to subpara-  
8           graph (B), construction of each project shall be  
9           performed by contract awarded by competitive  
10          bidding.

11          “(B) EXCEPTION.—Subparagraph (A)  
12          shall not apply if the Secretary or the Secretary  
13          of the appropriate Federal land management  
14          agency affirmatively finds that, under the cir-  
15          cumstances relating to the project, a different  
16          method is in the public interest.

17          “(b) AGENCY PROGRAM DISTRIBUTIONS.—

18          “(1) IN GENERAL.—On October 1, 2011, and  
19          on October 1 of each fiscal year thereafter, the Sec-  
20          retary shall allocate the sums authorized to be ap-  
21          propriated for the fiscal year for the Federal lands  
22          transportation program on the basis of applications  
23          of need, as determined by the Secretary—

1           “(A) in consultation with the Secretaries of  
2 the applicable Federal land management agen-  
3 cies; and

4           “(B) in coordination with the transpor-  
5 tation plans required under section 201 of the  
6 respective transportation systems of—

7                   “(i) the National Park Service;

8                   “(ii) the Forest Service;

9                   “(iii) the United States Fish and  
10 Wildlife Service;

11                   “(iv) the Corps of Engineers; and

12                   “(v) the Bureau of Land Manage-  
13 ment.

14           “(2) APPLICATIONS.—

15           “(A) REQUIREMENTS.—Each application  
16 submitted by a Federal land management agen-  
17 cy shall include proposed programs at various  
18 potential funding levels, as defined by the Sec-  
19 retary following collaborative discussions with  
20 applicable Federal land management agencies.

21           “(B) CONSIDERATION BY SECRETARY.—In  
22 evaluating an application submitted under sub-  
23 paragraph (A), the Secretary shall consider the  
24 extent to which the programs support—

25                   “(i) the transportation goals of—

1                   “(I) a state of good repair of  
2                   transportation facilities;

3                   “(II) a reduction of bridge defi-  
4                   ciencies, and

5                   “(III) an improvement of safety;

6                   “(ii) high-use Federal recreational  
7                   sites or Federal economic generators; and

8                   “(iii) the resource and asset manage-  
9                   ment goals of the Secretary of the respec-  
10                  tive Federal land management agency.

11                  “(C) PERMISSIVE CONTENTS.—Applica-  
12                  tions may include proposed programs the dura-  
13                  tion of which extend over a multiple-year period  
14                  to support long-term transportation planning  
15                  and resource management initiatives.

16                  “(c) NATIONAL FEDERAL LANDS TRANSPORTATION  
17                  FACILITY INVENTORY.—

18                   “(1) IN GENERAL.—The Secretaries of the ap-  
19                   propriate Federal land management agencies, in co-  
20                   operation with the Secretary, shall maintain a com-  
21                   prehensive national inventory of public Federal lands  
22                   transportation facilities.

23                   “(2) TRANSPORTATION FACILITIES INCLUDED  
24                   IN THE INVENTORIES.—To identify the Federal  
25                   lands transportation system and determine the rel-



1       ative transportation needs among Federal land man-  
2       agement agencies, the inventories shall include, at a  
3       minimum, facilities that—

4               “(A) provide access to high-use Federal  
5       recreation sites or Federal economic generators,  
6       as determined by the Secretary in coordination  
7       with the respective Secretaries of the appro-  
8       priate Federal land management agencies; and

9               “(B) are owned by 1 of the following agen-  
10      cies:

11               “(i) The National Park Service.

12               “(ii) The Forest Service.

13               “(iii) The United States Fish and  
14      Wildlife Service.

15               “(iv) The Bureau of Land Manage-  
16      ment.

17               “(v) The Corps of Engineers.

18               “(3) AVAILABILITY.—The inventories shall be  
19      made available to the Secretary.

20               “(4) UPDATES.—The Secretaries of the appro-  
21      priate Federal land management agencies shall up-  
22      date the inventories of the appropriate Federal land  
23      management agencies, as determined by the Sec-  
24      retary after collaborative discussions with the Secre-

1       taries of the appropriate Federal land management  
2       agencies.

3           “(5) REVIEW.—A decision to add or remove a  
4       facility from the inventory shall not be considered a  
5       Federal action for purposes of review under the Na-  
6       tional Environmental Policy Act of 1969 (42 U.S.C.  
7       4321 et seq.).

8           “(d) BICYCLE SAFETY.—The Secretary of the appro-  
9       priate Federal land management agency shall prohibit the  
10      use of bicycles on each federally owned road that has a  
11      speed limit of 30 miles per hour or greater and an adja-  
12      cent paved path for use by bicycles within 100 yards of  
13      the road.

14   **“§ 204. Federal lands access program**

15           “(a) USE OF FUNDS.—

16           “(1) IN GENERAL.—Funds made available  
17      under the Federal lands access program shall be  
18      used by the Secretary of Transportation and the  
19      Secretary of the appropriate Federal land manage-  
20      ment agency to pay the cost of—

21           “(A) transportation planning, research, en-  
22           gineering, preventive maintenance, rehabilita-  
23           tion, restoration, construction, and reconstruc-  
24           tion of Federal lands access transportation fa-

1 facilities located on or adjacent to, or that provide  
2 access to, Federal land, and—

3 “(i) adjacent vehicular parking areas;

4 “(ii) acquisition of necessary scenic  
5 easements and scenic or historic sites;

6 “(iii) provisions for pedestrians and  
7 bicycles;

8 “(iv) environmental mitigation in or  
9 adjacent to Federal land—

10 “(I) to improve public safety and  
11 reduce vehicle-caused wildlife mor-  
12 tality while maintaining habitat  
13 connectivity; and

14 “(II) to mitigate the damage to  
15 wildlife, aquatic organism passage,  
16 habitat, and ecosystem connectivity,  
17 including the costs of constructing,  
18 maintaining, replacing, or removing  
19 culverts and bridges, as appropriate;

20 “(v) construction and reconstruction  
21 of roadside rest areas, including sanitary  
22 and water facilities; and

23 “(vi) other appropriate public road fa-  
24 cilities, as determined by the Secretary;

1           “(B) operation and maintenance of transit  
2 facilities; and

3           “(C) any transportation project eligible for  
4 assistance under this title that is within or ad-  
5 jacent to, or that provides access to, Federal  
6 land.

7           “(2) CONTRACT.—In connection with an activ-  
8 ity described in paragraph (1), the Secretary and the  
9 Secretary of the appropriate Federal land manage-  
10 ment agency may enter into a contract or other ap-  
11 propriate agreement with respect to the activity  
12 with—

13           “(A) a State (including a political subdivi-  
14 sion of a State); or

15           “(B) an Indian tribe.

16           “(3) ADMINISTRATION.—All appropriations for  
17 the construction and improvement of Federal lands  
18 access transportation facilities shall be administered  
19 in conformity with regulations and agreements ap-  
20 proved by the Secretary.

21           “(4) COOPERATION.—

22           “(A) IN GENERAL.—The cooperation of  
23 States, counties, or other local subdivisions may  
24 be accepted in construction and improvement.

1           “(B) FUNDS RECEIVED.—Any funds re-  
2           ceived from a State, county, or local subdivision  
3           for a Federal lands access transportation facil-  
4           ity project shall be credited to appropriations  
5           available under the Federal lands access pro-  
6           gram.

7           “(5) COMPETITIVE BIDDING.—

8           “(A) IN GENERAL.—Subject to subpara-  
9           graph (B), construction of each project shall be  
10          performed by contract awarded by competitive  
11          bidding.

12          “(B) EXCEPTION.—Subparagraph (A)  
13          shall not apply if the Secretary or the Secretary  
14          of the appropriate Federal land management  
15          agency affirmatively finds that, under the cir-  
16          cumstances relating to the project, a different  
17          method is in the public interest.

18          “(b) PROGRAM DISTRIBUTIONS.—

19          “(1) IN GENERAL.—Funding made available to  
20          carry out the Federal lands access program shall be  
21          allocated among those States that have Federal  
22          land, in accordance with the following formula:

23                  “(A) 80 percent of the available funding  
24                  for use in those States that contain at least 1  
25                  ½ percent of the total public land in the United

1 States managed by the agencies described in  
2 paragraph (2), to be distributed as follows:

3 “(i) 30 percent in the ratio that—

4 “(I) recreational visitation within  
5 each such State; bears to

6 “(II) the recreational visitation  
7 within all such States.

8 “(ii) 5 percent in the ratio that—

9 “(I) the Federal land area within  
10 each such State; bears to

11 “(II) the Federal land area in all  
12 such States.

13 “(iii) 55 percent in the ratio that—

14 “(I) the Federal public road  
15 miles within each such State; bears to

16 “(II) the Federal public road  
17 miles in all such States.

18 “(iv) 10 percent in the ratio that—

19 “(I) the number of Federal pub-  
20 lic bridges within each such State;  
21 bears to

22 “(II) the number of Federal pub-  
23 lic bridges in all such States.

24 “(B) 20 percent of the available funding  
25 for use in those States that do not contain at

1 least 1 ½ percent of the total public land in the  
2 United States managed by the agencies de-  
3 scribed in paragraph (2), to be distributed as  
4 follows:

5 “(i) 30 percent in the ratio that—

6 “(I) recreational visitation within  
7 each such State; bears to

8 “(II) the recreational visitation  
9 within all such States.

10 “(ii) 5 percent in the ratio that—

11 “(I) the Federal land area within  
12 each such State; bears to

13 “(II) the Federal land area in all  
14 such States.

15 “(iii) 55 percent in the ratio that—

16 “(I) the Federal public road  
17 miles within each such State; bears to

18 “(II) the Federal public road  
19 miles in all such States.

20 “(iv) 10 percent in the ratio that—

21 “(I) the number of Federal pub-  
22 lic bridges within each such State;  
23 bears to

24 “(II) the number of Federal pub-  
25 lic bridges in all such States.

1           “(2) DATA SOURCE.—Data necessary to dis-  
2           tribute funding under paragraph (1) shall be pro-  
3           vided by the following Federal land management  
4           agencies:

5                   “(A) The National Park Service.

6                   “(B) The Forest Service.

7                   “(C) The United States Fish and Wildlife  
8           Service.

9                   “(D) The Bureau of Land Management.

10                  “(E) The Corps of Engineers.

11           “(c) PROGRAMMING DECISIONS COMMITTEE.—

12                  “(1) IN GENERAL.—Programming decisions  
13           shall be made within each State by a committee  
14           comprised of—

15                   “(A) a representative of the Federal High-  
16           way Administration;

17                   “(B) a representative of the State Depart-  
18           ment of Transportation; and

19                   “(C) a representative of any appropriate  
20           political subdivision of the State.

21                  “(2) CONSULTATION REQUIREMENT.—The com-  
22           mittee described in paragraph (1) shall consult with  
23           each applicable Federal agency in each State before  
24           any joint discussion or final programming decision.



1           “(3) PROJECT PREFERENCE.—In making a  
2           programming decision under paragraph (1), the  
3           committee shall give preference to projects that pro-  
4           vide access to, are adjacent to, or are located within  
5           high-use Federal recreation sites or Federal eco-  
6           nomic generators, as identified by the Secretaries of  
7           the appropriate Federal land management agen-  
8           cies.”.

9           (b) PUBLIC LANDS DEVELOPMENT ROADS AND  
10          TRAILS.—Section 214 of title 23, United States Code, is  
11          repealed.

12          (c) CONFORMING AMENDMENTS.—

13                 (1) CHAPTER 2 ANALYSIS.—The analysis for  
14                 chapter 2 of title 23, United States Code, is amend-  
15                 ed:

16                         (A) By striking the items relating to sec-  
17                         tions 201 through 204 and inserting the fol-  
18                         lowing:

“201. Federal lands and tribal transportation programs.

“202. Tribal transportation program.

“203. Federal lands transportation program.

“204. Federal lands access program.”.

19                         (B) By striking the item relating to section  
20                         214.

21                 (2) DEFINITION.—Section 138(a) of title 23,  
22                 United States Code, is amended in the third sen-  
23                 tence by striking “park road or parkway under sec-

1       tion 204 of this title” and inserting “Federal lands  
2       transportation facility”.

3               (3) RULES, REGULATIONS, AND RECOMMENDA-  
4       TIONS.—Section 315 of title 23, United States Code,  
5       is amended by striking “204(f)” and inserting  
6       “202(a)(5), 203(a)(3),”.

7       **SEC. 1117. ALASKA HIGHWAY.**

8       Section 218 of title 23, United States Code, is  
9       amended to read as follows:

10      **“§ 218. Alaska Highway**

11       “(a) DEFINITION OF ALASKA MARINE HIGHWAY  
12      SYSTEM.—In this section, the term ‘Alaska Marine High-  
13      way System’ includes each existing or planned transpor-  
14      tation facility and equipment in the State of Alaska relat-  
15      ing to the ferry system of the State, including the lease,  
16      purchase, or construction of vessels, terminals, docks,  
17      floats, ramps, staging areas, parking lots, bridges, and ap-  
18      proaches thereto, and necessary roads.

19       “(b) AUTHORIZATION OF SECRETARY.—

20       “(1) IN GENERAL.—Recognizing the benefits  
21      that will accrue to the State of Alaska and to the  
22      United States from the reconstruction of the Alaska  
23      Highway from the Alaskan border to Haines Junc-  
24      tion in Canada and the Haines Cutoff Highway from  
25      Haines Junction in Canada to Haines, the Secretary

1 is authorized, upon agreement with the State of  
2 Alaska, to expend on such highway or the Alaska  
3 Marine Highway System any Federal-aid highway  
4 funds apportioned to the State of Alaska under this  
5 title to provide for necessary reconstruction of such  
6 highway.

7 “(2) LIMITATION.—No expenditures shall be  
8 made for the construction of the portion of the high-  
9 ways that are in located in Canada until the date on  
10 which an agreement has been reached by the Gov-  
11 ernment of Canada and the Government of the  
12 United States, which shall provide in part, that the  
13 Canadian Government—

14 “(A) will provide, without participation of  
15 funds authorized under this title, all necessary  
16 right-of-way for the construction of the high-  
17 ways;

18 “(B) will not impose any highway toll, or  
19 permit any toll to be charged for the use of the  
20 highways by vehicles or persons;

21 “(C) will not levy or assess, directly or in-  
22 directly, any fee, tax, or other charge for the  
23 use of the highways by vehicles or persons from  
24 the United States that does not apply equally to  
25 vehicles or persons of Canada;



1           (1) generate national and regional economic  
2 benefits and increase global economic competitive-  
3 ness;

4           (2) reduce congestion and its impacts;

5           (3) improve roadways vital to national energy  
6 security;

7           (4) improve movement of freight and people;  
8 and

9           (5) improve transportation safety.

10 (c) DEFINITIONS.—In this section:

11           (1) ELIGIBLE APPLICANT.—The term “eligible  
12 applicant” means a State department of transpor-  
13 tation or a group of State departments of transpor-  
14 tation, a local government, a tribal government or  
15 consortium of tribal governments, a transit agency,  
16 a port authority, a metropolitan planning organiza-  
17 tion, other political subdivisions of State or local  
18 governments, or a multi-State or multi-jurisdictional  
19 group of the aforementioned entities.

20           (2) ELIGIBLE PROJECT.—The term “eligible  
21 project” means a surface transportation project or a  
22 program of integrated surface transportation  
23 projects closely related in the function they perform  
24 that—

25                   (A) is a capital project or projects—

1 (i) eligible for Federal financial assist-  
2 ance under title 23, United States Code, or  
3 under chapter 53 of title 49, United States  
4 Code; or

5 (ii) for surface transportation infra-  
6 structure to facilitate intermodal inter-  
7 change, transfer, and access into and out  
8 of intermodal facilities, including ports;  
9 and

10 (B) has eligible project costs that are rea-  
11 sonably anticipated to equal or exceed the lesser  
12 of—

13 (i) \$500,000,000;

14 (ii) for a project located in a single  
15 State, 60 percent of the amount of Fed-  
16 eral-aid highway funds apportioned for the  
17 most recently completed fiscal year to the  
18 State; or

19 (iii) for a project located in more than  
20 1 State, 75 percent of the amount of Fed-  
21 eral-aid highway funds apportioned for the  
22 most recently completed fiscal year to the  
23 State that has the largest apportionment.

24 (3) ELIGIBLE PROJECT COSTS.—The term “eli-  
25 gible project costs” means the costs of—

1 (A) development phase activities, including  
2 planning, feasibility analysis, revenue fore-  
3 casting, environmental review, preliminary engi-  
4 neering and design work, and other  
5 preconstruction activities;

6 (B) construction, reconstruction, rehabili-  
7 tation, and acquisition of real property (includ-  
8 ing land related to the project and improve-  
9 ments to land), environmental mitigation, con-  
10 struction contingencies, acquisition of equip-  
11 ment directly related to improving system per-  
12 formance, and operational improvements; and

13 (C) all financing costs, including subsidy  
14 costs under the Transportation Infrastructure  
15 Finance and Innovation Act program.

16 (d) SOLICITATIONS AND APPLICATIONS.—

17 (1) GRANT SOLICITATIONS.—The Secretary  
18 shall establish criteria for project evaluation and  
19 conduct a transparent and competitive national solie-  
20 itation process to select projects for funding to carry  
21 out the purposes of this section.

22 (2) APPLICATIONS.—

23 (A) IN GENERAL.—An eligible applicant  
24 seeking a grant under this section for an eligi-  
25 ble project shall submit an application to the

1 Secretary in such form and in accordance with  
2 such requirements as the Secretary shall estab-  
3 lish.

4 (B) CONTENTS.—An application under  
5 this subsection shall, at a minimum, include  
6 data on current system performance and esti-  
7 mated system improvements that will result  
8 from completion of the eligible project, includ-  
9 ing projections for 2, 7, and 15 years after  
10 completion.

11 (C) RESUBMISSION OF APPLICATIONS.—An  
12 eligible applicant whose project is not selected  
13 by the Secretary may resubmit an application  
14 in any subsequent solicitation.

15 (e) CRITERIA FOR PROJECT EVALUATION AND SE-  
16 LECTION.—

17 (1) IN GENERAL.—The Secretary may select a  
18 project only if the Secretary determines that the  
19 project—

20 (A) will significantly improve the perform-  
21 ance of the national surface transportation net-  
22 work, nationally or regionally;

23 (B) is based on the results of preliminary  
24 engineering;



1 (C) cannot be readily and efficiently com-  
2 pleted without Federal support from this pro-  
3 gram;

4 (D) is justified based on the ability of the  
5 project—

6 (i) to generate national economic ben-  
7 efits that reasonably exceed its costs, in-  
8 cluding increased access to jobs, labor, and  
9 other critical economic inputs;

10 (ii) to reduce long-term congestion, in-  
11 cluding impacts in the State, region, and  
12 Nation, and increase speed, reliability, and  
13 accessibility of the movement of people or  
14 freight; and

15 (iii) to improve transportation safety,  
16 including reducing transportation acci-  
17 dents, injuries, and fatalities; and

18 (E) is supported by an acceptable degree  
19 of non-Federal financial commitments, includ-  
20 ing evidence of stable and dependable financing  
21 sources to construct, maintain, and operate the  
22 infrastructure facility.

23 (2) ADDITIONAL CONSIDERATIONS.—In evalu-  
24 ating a project under this section, in addition to the

1 criteria in paragraph (1), the Secretary shall con-  
2 sider the extent to which the project—

3 (A) leverages Federal investment by en-  
4 couraging non-Federal contributions to the  
5 project, including contributions from public-pri-  
6 vate partnerships;

7 (B) is able to begin construction within 18  
8 months of being selected;

9 (C) incorporates innovative project delivery  
10 and financing where practical;

11 (D) stimulates collaboration between  
12 States and among State and local governments;

13 (E) helps maintain or protect the environ-  
14 ment;

15 (F) improves roadways vital to national en-  
16 ergy security;

17 (G) uses innovative technologies, including  
18 intelligent transportation systems, that enhance  
19 the efficiency of the project; and

20 (H) contributes to an equitable geographic  
21 distribution of funds and an appropriate bal-  
22 ance in addressing the needs of urban and rural  
23 communities.

24 (f) GRANT REQUIREMENTS.—

1           (1) IN GENERAL.—A grant for a project under  
2 this section shall be subject to the following require-  
3 ments:

4           (A) A qualifying highway project eligible  
5 for funding under title 23, United States Code,  
6 or public transportation project eligible under  
7 chapter 53 of title 49, United States Code, shall  
8 comply with all applicable requirements of such  
9 title or chapter except that, if the project con-  
10 tains elements or activities that are not eligible  
11 for funding under such title or chapter but are  
12 eligible for funding under this section, the ele-  
13 ments or activities shall comply with the re-  
14 quirements described in subparagraph (B).

15           (B) A qualifying surface transportation  
16 project not eligible under title 23, United States  
17 Code, or chapter 53 of title 49, United States  
18 Code, shall comply with the requirements of  
19 subchapter IV of chapter 31 of title 40, United  
20 States Code, section 10a–d of title 41, United  
21 States Code, and such other terms, conditions,  
22 and requirements as the Secretary determines  
23 are necessary and appropriate for the type of  
24 project.

1           (2) DETERMINATION OF APPLICABLE MODAL  
2           REQUIREMENTS.—In the event that a project has  
3           cross-modal components, the Secretary shall have  
4           the discretion to designate the requirements that  
5           shall apply to the project based on predominant  
6           components.

7           (3) OTHER TERMS AND CONDITIONS.—The Sec-  
8           retary shall require that all grants under this section  
9           be subject to all terms, conditions, and requirements  
10          that the Secretary decides are necessary or appro-  
11          priate for purposes of this section, including require-  
12          ments for the disposition of net increases in value of  
13          real property resulting from the project assisted  
14          under this section.

15          (g) FEDERAL SHARE OF PROJECT COST.—The Fed-  
16          eral share of funds under this section for the project shall  
17          be up to 50 percent of the project cost. Other eligible Fed-  
18          eral transportation funds may be used by the project spon-  
19          sor up to an additional 30 percent of the project costs.  
20          If a project is to construct or improve a privately owned  
21          facility or would primarily benefit a private entity, the  
22          Federal share shall be the lesser of 50 percent of the total  
23          project cost or the quantified public benefit of the project.  
24          The Secretary may allow costs incurred prior to project  
25          approval to be used as a credit toward the non-Federal

1 share of the cost of the project. Such costs must be ade-  
 2 quately documented, necessary, reasonable and allocable  
 3 to the current phase of the project and such costs may  
 4 not be included as a cost or used to meet cost sharing  
 5 or matching requirements of any other federally financed  
 6 project.

7 (h) REPORT TO THE SECRETARY.—For each project  
 8 funded under this section, the project sponsor shall reas-  
 9 sess system performance and report to the Secretary 2,  
 10 7, and 15 years after completion of the project to assess  
 11 if the project outcomes have met pre-construction projec-  
 12 tions.

13 (i) AUTHORIZATION OF APPROPRIATIONS.—There is  
 14 authorized to be appropriated to carry out this section,  
 15 to remain available until expended, \$1,000,000,000 for fis-  
 16 cal year 2013.

17 (j) TREATMENT OF PROJECTS.—Notwithstanding  
 18 any other provision of law, projects funded under this sec-  
 19 tion shall be treated as projects on a Federal-aid system  
 20 under chapter 1 of title 23, United States Code.

## 21 **Subtitle B—Performance**

### 22 **Management**

#### 23 **SEC. 1201. METROPOLITAN TRANSPORTATION PLANNING.**

24 Section 134 of title 23, United States Code, is  
 25 amended to read as follows:

1 **“§ 134. Metropolitan transportation planning**

2 “(a) POLICY.—It is in the national interest—

3 “(1) to encourage and promote the safe, cost-  
4 effective, and efficient management, operation, and  
5 development of surface transportation systems that  
6 will serve efficiently the mobility needs of individuals  
7 and freight, reduce transportation-related fatalities  
8 and injuries, and foster economic growth and devel-  
9 opment within and between States and urbanized  
10 areas, while fitting the needs and complexity of indi-  
11 vidual communities, maximizing value for taxpayers,  
12 leveraging cooperative investments, and minimizing  
13 transportation-related fuel consumption and air pol-  
14 lution through the metropolitan and statewide trans-  
15 portation planning processes identified in this title;

16 “(2) to encourage the continued improvement,  
17 evolution, and coordination of the metropolitan and  
18 statewide transportation planning processes by and  
19 among metropolitan planning organizations, State  
20 departments of transportation, regional planning or-  
21 ganizations, interstate partnerships, and public tran-  
22 sit and intercity service operators as guided by the  
23 planning factors identified in subsection (h) of this  
24 section and section 135(d);

1           “(3) to encourage and promote transportation  
2 needs and decisions that are integrated with other  
3 planning needs and priorities; and

4           “(4) to maximize the effectiveness of transpor-  
5 tation investments.

6           “(b) DEFINITIONS.—In this section and section 135,  
7 the following definitions apply:

8           “(1) EXISTING MPO.—The term ‘existing MPO’  
9 means a metropolitan planning organization that was  
10 designated as a metropolitan planning organization  
11 on the day before the date of enactment of the  
12 MAP-21.

13           “(2) LOCAL OFFICIAL.—The term ‘local official’  
14 means any elected or appointed official of general  
15 purpose local government with responsibility for  
16 transportation in a designated area.

17           “(3) MAINTENANCE AREA.—The term ‘mainte-  
18 nance area’ means an area that was designated as  
19 an air quality nonattainment area, but was later re-  
20 designated by the Administrator of the Environ-  
21 mental Protection Agency as an air quality attain-  
22 ment area, under section 107(d) of the Clean Air  
23 Act (42 U.S.C. 7407(d)).

24           “(4) METROPOLITAN PLANNING AREA.—The  
25 term ‘metropolitan planning area’ means a geo-

1       graphical area determined by agreement between the  
2       metropolitan planning organization for the area and  
3       the applicable Governor under subsection (c).

4           “(5) METROPOLITAN PLANNING ORGANIZA-  
5       TION.—The term ‘metropolitan planning organiza-  
6       tion’ means the policy board of an organization es-  
7       tablished pursuant to subsection (c).

8           “(6) METROPOLITAN TRANSPORTATION  
9       PLAN.—The term ‘metropolitan transportation plan’  
10      means a plan developed by a metropolitan planning  
11      organization under subsection (i).

12          “(7) NONATTAINMENT AREA.—The term ‘non-  
13      attainment area’ has the meaning given the term in  
14      section 171 of the Clean Air Act (42 U.S.C. 7501).

15          “(8) NONMETROPOLITAN AREA.—

16           “(A) IN GENERAL.—The term ‘nonmetro-  
17      politan area’ means a geographical area outside  
18      the boundaries of a designated metropolitan  
19      planning area.

20           “(B) INCLUSIONS.—The term ‘nonmetro-  
21      politan area’ includes small urbanized and non-  
22      urbanized areas.

23          “(9) NONMETROPOLITAN PLANNING ORGANIZA-  
24      TION.—



1           “(A) IN GENERAL.—The term ‘nonmetro-

2           politan planning organization’ means an organi-

3           zation designated by a State to enhance the

4           planning, coordination, and implementation of

5           statewide transportation plans and programs in

6           a nonmetropolitan area, with an emphasis on

7           addressing the needs of nonmetropolitan areas

8           of the State.

9           “(B) INCLUSION.—The term ‘nonmetro-

10          politan planning organization’ includes a rural

11          planning organization.

12          “(10) REGIONALLY SIGNIFICANT.—The term

13          ‘regionally significant’, with respect to a transpor-

14          tation project, program, service, or strategy, means

15          a project, program, service, or strategy that—

16               “(A) serves regional transportation needs

17               (such as access to and from the area outside of

18               the region, major activity centers in the region,

19               and major planned developments); and

20               “(B) would normally be included in the

21               modeling of a transportation network of a met-

22               ropolitan area.

23          “(11) STATEWIDE TRANSPORTATION IMPROVE-

24          MENT PROGRAM.—The term ‘statewide transpor-

25          tation improvement program’ means a statewide

1 transportation improvement program developed by a  
2 State under section 135(g).

3 “(12) STATEWIDE TRANSPORTATION PLAN.—  
4 The term ‘statewide transportation plan’ means a  
5 plan developed by a State under section 135(f).

6 “(13) TRANSPORTATION IMPROVEMENT PRO-  
7 GRAM.—The term ‘transportation improvement pro-  
8 gram’ means a program developed by a metropolitan  
9 planning organization under subsection (j).

10 “(14) URBANIZED AREA.—The term ‘urbanized  
11 area’ means a geographical area with a population  
12 of 50,000 or more individuals, as determined by the  
13 Bureau of the Census.

14 “(c) DESIGNATION OF METROPOLITAN PLANNING  
15 ORGANIZATIONS.—

16 “(1) IN GENERAL.—To carry out the metropoli-  
17 tan transportation planning process under this sec-  
18 tion, a metropolitan planning organization shall be  
19 designated for each urbanized area with a population  
20 of more than 200,000 individuals—

21 “(A) by agreement between the applicable  
22 Governor and local officials that, in the aggre-  
23 gate, represent at least 75 percent of the af-  
24 fected population (including the largest incor-

1           porated city (based on population), as deter-  
2           mined by the Bureau of the Census); or

3           “(B) in accordance with procedures estab-  
4           lished by applicable State or local law.

5           “(2) SMALL URBANIZED AREAS.—To carry out  
6           the metropolitan transportation planning process  
7           under this section, a metropolitan planning organiza-  
8           tion may be designated for any urbanized area with  
9           a population of more than 50,000, but less than  
10          200,000, individuals—

11           “(A) by agreement between the applicable  
12          Governor and local officials that, in the aggre-  
13          gate, represent at least 75 percent of the af-  
14          fected population (including the largest incor-  
15          porated city (based on population), as deter-  
16          mined by the Bureau of the Census); and

17           “(B) with the consent of the Secretary,  
18          based on a finding that the resulting metropoli-  
19          tan planning organization has met the min-  
20          imum requirements under subsection (e)(4)(B).

21           “(3) STRUCTURE.—Effective beginning on the  
22          date of designation or redesignation under this sub-  
23          section, a metropolitan planning organization shall  
24          consist of—

1           “(A) elected local officials in the relevant  
2 metropolitan area;

3           “(B) officials of public agencies that ad-  
4 minister or operate major modes of transpor-  
5 tation in the relevant metropolitan area; and

6           “(C) appropriate State officials.

7           “(4) EFFECT OF SUBSECTION.—Nothing in this  
8 subsection interferes with any authority under any  
9 State law in effect on December 18, 1991, of a pub-  
10 lic agency with multimodal transportation respon-  
11 sibilities—

12           “(A) to develop the metropolitan transpor-  
13 tation plans and transportation improvement  
14 programs for adoption by a metropolitan plan-  
15 ning organization; or

16           “(B) to develop capital plans, coordinate  
17 transit services and projects, or carry out other  
18 activities pursuant to State law.

19           “(5) CONTINUING DESIGNATION.—A designa-  
20 tion of a metropolitan planning organization under  
21 this subsection or any other provision of law—

22           “(A) for an urbanized area with a popu-  
23 lation of 200,000 or more individuals shall re-  
24 main in effect—

1           “(i) for the period during which the  
2           structure of the existing MPO complies  
3           with the requirements of paragraph (1); or

4           “(ii) until the date on which the exist-  
5           ing MPO is redesignated under paragraph  
6           (7); and

7           “(B) for an urbanized area with a popu-  
8           lation of less than 200,000 individuals, shall be  
9           terminated on the date that is 3 years after the  
10          date on which the Secretary promulgates a reg-  
11          ulation pursuant to subsection (e)(4)(B)(i), un-  
12          less reaffirmed by the existing MPO and the  
13          applicable Governor and approved by the Sec-  
14          retary, on the basis of meeting the minimum re-  
15          quirements established by the regulation.

16          “(6) EXTENSION.—

17                 “(A) IN GENERAL.—If the applicable Gov-  
18                 ernor, acting on behalf of a metropolitan plan-  
19                 ning organization for an urbanized area with a  
20                 population of less than 200,000 that would oth-  
21                 erwise be terminated under paragraph (5)(B),  
22                 requests a probationary continuation before the  
23                 termination of the metropolitan planning orga-  
24                 nization, the Secretary shall—

1           “(i) delay the termination of the met-  
2           ropolitan planning organization under  
3           paragraph (5)(B) for a period of 1 year;  
4           and

5           “(ii) provide additional technical as-  
6           sistance to all metropolitan planning orga-  
7           nizations provided an extension under this  
8           paragraph to assist the metropolitan plan-  
9           ning organization in meeting the minimum  
10          requirements under subsection (e)(4)(B)(i).

11          “(B) DESIGNATION AS TIER II MPO.—If  
12          the Secretary determines the metropolitan plan-  
13          ning organization has met the minimum re-  
14          quirements under subsection (e)(4)(B)(i) before  
15          the final termination date, the metropolitan  
16          planning organization shall be designated as a  
17          tier II MPO.

18          “(7) REDESIGNATION.—The designation of a  
19          metropolitan planning organization under this sub-  
20          section shall remain in effect until the date on which  
21          the metropolitan planning organization is redesi-  
22          gnated, as appropriate, in accordance with the re-  
23          quirements of this subsection pursuant to an agree-  
24          ment between—

25                 “(A) the applicable Governor; and

1           “(B) affected local officials who, in the ag-  
2           gregate, represent at least 75 percent of the ex-  
3           isting metropolitan planning area population  
4           (including the largest incorporated city (based  
5           on population), as determined by the Bureau of  
6           the Census).

7           “(8) DESIGNATION OF MULTIPLE MPOS.—

8           “(A) IN GENERAL.—More than 1 metro-  
9           politan planning organization may be des-  
10          ignated within an existing metropolitan plan-  
11          ning area only if the applicable Governor and  
12          an existing MPO determine that the size and  
13          complexity of the existing metropolitan planning  
14          area make the designation of more than 1 met-  
15          ropolitan planning organization for the metro-  
16          politan planning area appropriate.

17          “(B) SERVICE JURISDICTIONS.—If more  
18          than 1 metropolitan planning organization is  
19          designated for an existing metropolitan plan-  
20          ning area under subparagraph (A), the existing  
21          metropolitan planning area shall be split into  
22          multiple metropolitan planning areas, each of  
23          which shall be served by the existing MPO or  
24          a new metropolitan planning organization.

1           “(C) TIER DESIGNATION.—The tier des-  
2           ignation of each metropolitan planning organi-  
3           zation subject to a designation under this para-  
4           graph shall be determined based on the size of  
5           each respective metropolitan planning area, in  
6           accordance with subsection (e)(4).

7           “(d) METROPOLITAN PLANNING AREA BOUND-  
8           ARIES.—

9           “(1) IN GENERAL.—For purposes of this sec-  
10          tion, the boundaries of a metropolitan planning area  
11          shall be determined by agreement between the appli-  
12          cable metropolitan planning organization and the  
13          Governor of the State in which the metropolitan  
14          planning area is located.

15          “(2) INCLUDED AREA.—Each metropolitan  
16          planning area—

17                 “(A) shall encompass at least the relevant  
18                 existing urbanized area and any contiguous  
19                 area expected to become urbanized within a 20-  
20                 year forecast period under the applicable metro-  
21                 politan transportation plan; and

22                 “(B) may encompass the entire relevant  
23                 metropolitan statistical area, as defined by the  
24                 Office of Management and Budget.



1           “(3) IDENTIFICATION OF NEW URBANIZED  
2 AREAS.—The designation by the Bureau of the Cen-  
3 sus of a new urbanized area within the boundaries  
4 of an existing metropolitan planning area shall not  
5 require the redesignation of the relevant existing  
6 MPO.

7           “(4) NONATTAINMENT AND MAINTENANCE  
8 AREAS.—

9           “(A) EXISTING METROPOLITAN PLANNING  
10 AREAS.—

11           “(i) IN GENERAL.—Except as pro-  
12 vided in clause (ii), notwithstanding para-  
13 graph (2), in the case of an urbanized area  
14 designated as a nonattainment area or  
15 maintenance area as of the date of enact-  
16 ment of the MAP-21, the boundaries of  
17 the existing metropolitan planning area as  
18 of that date of enactment shall remain in  
19 force and effect.

20           “(ii) EXCEPTION.—Notwithstanding  
21 clause (i), the boundaries of an existing  
22 metropolitan planning area described in  
23 that clause may be adjusted by agreement  
24 of the applicable Governor and the affected

1 metropolitan planning organizations in ac-  
2 cordance with subsection (c)(5).

3 “(B) NEW METROPOLITAN PLANNING  
4 AREAS.—In the case of an urbanized area des-  
5 igned as a nonattainment area or mainte-  
6 nance area after the date of enactment of the  
7 MAP–21, the boundaries of the applicable met-  
8 ropolitan planning area—

9 “(i) shall be established in accordance  
10 with subsection (c)(1);

11 “(ii) shall encompass the areas de-  
12 scribed in paragraph (2)(A);

13 “(iii) may encompass the areas de-  
14 scribed in paragraph (2)(B); and

15 “(iv) may address any appropriate  
16 nonattainment area or maintenance area.

17 “(e) REQUIREMENTS.—

18 “(1) DEVELOPMENT OF PLANS AND TIPS.—To  
19 accomplish the policy objectives described in sub-  
20 section (a), each metropolitan planning organization,  
21 in cooperation with the applicable State and public  
22 transportation operators, shall develop metropolitan  
23 transportation plans and transportation improve-  
24 ment programs for metropolitan planning areas of  
25 the State through a performance-driven, outcome-

1 based approach to metropolitan transportation plan-  
2 ning consistent with subsection (h)(2).

3 “(2) CONTENTS.—The metropolitan transpor-  
4 tation plans and transportation improvement pro-  
5 grams for each metropolitan area shall provide for  
6 the development and integrated management and  
7 operation of transportation systems and facilities  
8 (including accessible pedestrian walkways, bicycle  
9 transportation facilities, and intermodal facilities  
10 that support intercity transportation) that will func-  
11 tion as—

12 “(A) an intermodal transportation system  
13 for the metropolitan planning area; and

14 “(B) an integral part of an intermodal  
15 transportation system for the applicable State  
16 and the United States.

17 “(3) PROCESS OF DEVELOPMENT.—The process  
18 for developing metropolitan transportation plans and  
19 transportation improvement programs shall—

20 “(A) provide for consideration of all modes  
21 of transportation; and

22 “(B) be continuing, cooperative, and com-  
23 prehensive to the degree appropriate, based on  
24 the complexity of the transportation needs to be  
25 addressed.

1 “(4) TIERING.—

2 “(A) TIER I MPOS.—

3 “(i) IN GENERAL.—A metropolitan  
4 planning organization shall be designated  
5 as a tier I MPO if—

6 “(I) as certified by the Governor  
7 of each applicable State, the metro-  
8 politan planning organization operates  
9 within, and primarily serves, a metro-  
10 politan planning area with a popu-  
11 lation of 1,000,000 or more individ-  
12 uals, as calculated according to the  
13 most recent decennial census; and

14 “(II) the Secretary determines  
15 the metropolitan planning organiza-  
16 tion—

17 “(aa) meets the minimum  
18 technical requirements under  
19 clause (iv); and

20 “(bb) not later than 2 years  
21 after the date of enactment of  
22 the MAP-21, will fully imple-  
23 ment the processes described in  
24 subsections (h) through (j).

1           “(ii) ABSENCE OF DESIGNATION.—In  
2           the absence of designation as a tier I MPO  
3           under clause (i), a metropolitan planning  
4           organization shall operate as a tier II  
5           MPO until the date on which the Secretary  
6           determines the metropolitan planning orga-  
7           nization can meet the minimum technical  
8           requirements under clause (iv).

9           “(iii) REDESIGNATION AS TIER I.—A  
10          metropolitan planning organization oper-  
11          ating within a metropolitan planning area  
12          with a population of less than 1,000,000,  
13          but more than 200,000, individuals and  
14          primarily within urbanized areas with pop-  
15          ulations of more than 200,000 individuals,  
16          as calculated according to the most recent  
17          decennial census, that is designated as a  
18          tier II MPO under subparagraph (B) may  
19          request, with the support of the applicable  
20          Governor, a redesignation as a tier I MPO  
21          on a determination by the Secretary that  
22          the metropolitan planning organization has  
23          met the minimum technical requirements  
24          under clause (iv).

1           “(iv) MINIMUM TECHNICAL REQUIRE-  
2           MENTS.—Not later than 1 year after the  
3           date of enactment of the MAP–21, the  
4           Secretary shall publish a regulation that  
5           establishes the minimum technical require-  
6           ments necessary for a metropolitan plan-  
7           ning organization to be designated as a  
8           tier I MPO, including, at a minimum,  
9           modeling, data, staffing, and other tech-  
10          nical requirements.

11          “(B) TIER II MPOS.—

12           “(i) IN GENERAL.—Not later than 1  
13          year after the date of enactment of the  
14          MAP–21, the Secretary shall publish a  
15          regulation that establishes minimum re-  
16          quirements necessary for a metropolitan  
17          planning organization to be designated as  
18          a tier II MPO.

19           “(ii) REQUIREMENTS.—The minimum  
20          requirements established under clause (i)  
21          shall—

22                   “(I) ensure that each metropoli-  
23                   tan planning organization has the ca-  
24                   pabilities necessary to develop the  
25                   metropolitan transportation plan and

1 transportation improvement program  
2 under this section; and

3 “(II) include—

4 “(aa) only the staff re-  
5 sources necessary to operate the  
6 metropolitan planning organiza-  
7 tion; and

8 “(bb) a requirement that the  
9 metropolitan planning organiza-  
10 tion has the technical capacity to  
11 conduct the modeling necessary  
12 to fulfill the requirements of this  
13 section, except that in cases in  
14 which a metropolitan planning  
15 organization has a formal agree-  
16 ment with a State to conduct the  
17 modeling on behalf of the metro-  
18 politan planning organization, the  
19 metropolitan planning organiza-  
20 tion shall be exempt from the  
21 technical capacity requirement.

22 “(iii) INCLUSION.—A metropolitan  
23 planning organization operating primarily  
24 within an urbanized area with a population  
25 of more than 200,000 individuals, as cal-

1           culated according to the most recent de-  
2           cennial census, and that does not qualify  
3           as a tier I MPO under subparagraph  
4           (A)(i), shall—

5                   “(I) be designated as a tier II  
6                   MPO; and

7                   “(II) follow the processes under  
8                   subsection (k).

9           “(C) SMALL URBANIZED AREAS.—

10                   “(i) IN GENERAL.—Not later than 2  
11                   years after the date of publication of the  
12                   regulation under subparagraph (B)(i), any  
13                   existing MPO operating primarily within  
14                   an urbanized area with a population of  
15                   fewer than 200,000, but more than  
16                   50,000, individuals (as determined before  
17                   the date of enactment of the MAP-21),  
18                   with the support of the applicable Gov-  
19                   ernor, may request designation as a tier II  
20                   MPO on a determination by the Secretary  
21                   that the metropolitan planning organiza-  
22                   tion has met the minimum requirements  
23                   under subparagraph (B)(i).

24                   “(ii) ABSENCE OF DESIGNATION.—A  
25                   metropolitan planning organization that is



1 the subject of a negative determination of  
2 the Secretary under clause (i) shall submit  
3 to the State in which the metropolitan  
4 planning organization is located, or to a  
5 planning organization designated by the  
6 State, by not later than 180 days after the  
7 date on which a notice of the negative de-  
8 termination is received, a 6-month plan  
9 that includes a description of a method—

10 “(I) to transfer the responsibil-  
11 ities of the metropolitan planning or-  
12 ganization to the State; and

13 “(II) to dissolve the metropolitan  
14 planning organization.

15 “(iii) ACTION ON DISSOLUTION.—On  
16 submission of a plan under clause (ii), the  
17 metropolitan planning area served by the  
18 applicable metropolitan planning organiza-  
19 tion shall—

20 “(I) continue to receive metro-  
21 politan transportation planning funds  
22 until the earlier of—

23 “(aa) the date of dissolution  
24 of the metropolitan planning or-  
25 ganization; and

1                   “(bb) the date that is 4  
2                   years after the date of enactment  
3                   of the MAP-21; and

4                   “(II) be treated by the State as  
5                   a nonmetropolitan area for purposes  
6                   of this title.

7                   “(D) CONSOLIDATION.—

8                   “(i) IN GENERAL.—Metropolitan plan-  
9                   ning organizations operating within contig-  
10                  uous or adjacent urbanized areas may elect  
11                  to consolidate in order to meet the popu-  
12                  lation thresholds required to achieve des-  
13                  ignation as a tier I or tier II MPO under  
14                  this paragraph.

15                  “(ii) EFFECT OF SUBSECTION.—  
16                  Nothing in this subsection requires or pre-  
17                  vents consolidation among multiple metro-  
18                  politan planning organizations located  
19                  within a single urbanized area.

20                  “(f) COORDINATION IN MULTISTATE AREAS.—

21                  “(1) IN GENERAL.—The Secretary shall encour-  
22                  age each Governor with responsibility for a portion  
23                  of a multistate metropolitan area and the appro-  
24                  priate metropolitan planning organizations to pro-

1       vide coordinated transportation planning for the en-  
2       tire metropolitan area.

3               “(2) COORDINATION ALONG DESIGNATED  
4       TRANSPORTATION CORRIDORS.—The Secretary shall  
5       encourage each Governor with responsibility for a  
6       portion of a multistate metropolitan area and the  
7       appropriate metropolitan planning organizations to  
8       provide coordinated transportation planning for the  
9       entire designated transportation corridor.

10              “(3) COORDINATION WITH INTERSTATE COM-  
11       PACTS.—The Secretary shall encourage metropolitan  
12       planning organizations to take into consideration,  
13       during the development of metropolitan transpor-  
14       tation plans and transportation improvement pro-  
15       grams, any relevant transportation studies con-  
16       cerning planning for regional transportation (includ-  
17       ing high-speed and intercity rail corridor studies,  
18       commuter rail corridor studies, intermodal termi-  
19       nals, and interstate highways) in support of freight,  
20       intercity, or multistate area projects and services  
21       that have been developed pursuant to interstate com-  
22       pacts or agreements, or by organizations established  
23       under section 135.

24              “(g) ENGAGEMENT IN METROPOLITAN TRANSPOR-  
25       TATION PLAN AND TIP DEVELOPMENT.—

1           “(1) NONATTAINMENT AND MAINTENANCE  
2 AREAS.—If more than 1 metropolitan planning orga-  
3 nization has authority within a metropolitan area,  
4 nonattainment area, or maintenance area, each met-  
5 ropolitan planning organization shall consult with  
6 each other metropolitan planning organization des-  
7 igned for the metropolitan area, nonattainment  
8 area, or maintenance area and the State in the de-  
9 velopment of metropolitan transportation plans and  
10 transportation improvement programs under this  
11 section.

12           “(2) TRANSPORTATION IMPROVEMENTS LO-  
13 CATED IN MULTIPLE METROPOLITAN PLANNING  
14 AREAS.—If a transportation improvement project  
15 funded under this title or chapter 53 of title 49 is  
16 located within the boundaries of more than 1 metro-  
17 politan planning area, the affected metropolitan  
18 planning organizations shall coordinate metropolitan  
19 transportation plans and transportation improve-  
20 ment programs regarding the project.

21           “(3) COORDINATION OF ADJACENT PLANNING  
22 ORGANIZATIONS.—

23           “(A) IN GENERAL.—A metropolitan plan-  
24 ning organization that is adjacent or located in  
25 reasonably close proximity to another metropoli-

1 tan planning organization shall coordinate with  
2 that metropolitan planning organization with  
3 respect to planning processes, including prepa-  
4 ration of metropolitan transportation plans and  
5 transportation improvement programs, to the  
6 maximum extent practicable.

7 “(B) NONMETROPOLITAN PLANNING ORGA-  
8 NIZATIONS.—A metropolitan planning organiza-  
9 tion that is adjacent or located in reasonably  
10 close proximity to a nonmetropolitan planning  
11 organization shall consult with that nonmetro-  
12 politan planning organization with respect to  
13 planning processes, to the maximum extent  
14 practicable.

15 “(4) RELATIONSHIP WITH OTHER PLANNING  
16 OFFICIALS.—

17 “(A) IN GENERAL.—The Secretary shall  
18 encourage each metropolitan planning organiza-  
19 tion to cooperate with Federal, tribal, State,  
20 and local officers and entities responsible for  
21 other types of planning activities that are af-  
22 fected by transportation in the relevant area  
23 (including planned growth, economic develop-  
24 ment, infrastructure services, housing, other  
25 public services, environmental protection, air-

1 port operations, high-speed and intercity pas-  
2 senger rail, freight rail, port access, and freight  
3 movements), to the maximum extent prac-  
4 ticable, to ensure that the metropolitan trans-  
5 portation planning process, metropolitan trans-  
6 portation plans, and transportation improve-  
7 ment programs are developed in cooperation  
8 with other related planning activities in the  
9 area.

10 “(B) INCLUSION.—Cooperation under sub-  
11 paragraph (A) shall include the design and de-  
12 livery of transportation services within the met-  
13 ropolitan area that are provided by—

14 “(i) recipients of assistance under sec-  
15 tions 202, 203, and 204;

16 “(ii) recipients of assistance under  
17 chapter 53 of title 49;

18 “(iii) government agencies and non-  
19 profit organizations (including representa-  
20 tives of the agencies and organizations)  
21 that receive Federal assistance from a  
22 source other than the Department of  
23 Transportation to provide nonemergency  
24 transportation services; and

1                   “(iv) sponsors of regionally significant  
2                   programs, projects, and services that are  
3                   related to transportation and receive as-  
4                   sistance from any public or private source.

5                   “(5) COORDINATION OF OTHER FEDERALLY RE-  
6                   QUIRED PLANNING PROGRAMS.—The Secretary shall  
7                   encourage each metropolitan planning organization  
8                   to coordinate, to the maximum extent practicable,  
9                   the development of metropolitan transportation  
10                  plans and transportation improvement programs  
11                  with other relevant federally required planning pro-  
12                  grams.

13                  “(h) SCOPE OF PLANNING PROCESS.—

14                  “(1) IN GENERAL.—The metropolitan transpor-  
15                  tation planning process for a metropolitan planning  
16                  area under this section shall provide for consider-  
17                  ation of projects and strategies that will—

18                         “(A) support the economic vitality of the  
19                         metropolitan area, especially by enabling global  
20                         competitiveness, productivity, and efficiency;

21                         “(B) increase the safety of the transpor-  
22                         tation system for motorized and nonmotorized  
23                         users;

1           “(C) increase the security of the transpor-  
2           tation system for motorized and nonmotorized  
3           users;

4           “(D) increase the accessibility and mobility  
5           of individuals and freight;

6           “(E) protect and enhance the environment,  
7           promote energy conservation, improve the qual-  
8           ity of life, and promote consistency between  
9           transportation improvements and State and  
10          local planned growth and economic development  
11          patterns;

12          “(F) enhance the integration and  
13          connectivity of the transportation system,  
14          across and between modes, for individuals and  
15          freight;

16          “(G) increase efficient system management  
17          and operation; and

18          “(H) emphasize the preservation of the ex-  
19          isting transportation system.

20          “(2) PERFORMANCE-BASED APPROACH.—

21                 “(A) IN GENERAL.—The metropolitan  
22                 transportation planning process shall provide  
23                 for the establishment and use of a performance-  
24                 based approach to transportation decision-



1 making to support the national goals described  
2 in section 150(b).

3 “(B) PERFORMANCE TARGETS.—

4 “(i) IN GENERAL.—Each metropolitan  
5 planning organization shall establish per-  
6 formance targets that address the perform-  
7 ance measures described in sections 119(f),  
8 148(h), 149(k), and 167(i) to use in track-  
9 ing attainment of critical outcomes for the  
10 region of the metropolitan planning organi-  
11 zation.

12 “(ii) COORDINATION.—Selection of  
13 performance targets by a metropolitan  
14 planning organization shall be coordinated  
15 with the relevant State to ensure consist-  
16 ency, to the maximum extent practicable.

17 “(C) TIMING.—Each metropolitan plan-  
18 ning organization shall establish the perform-  
19 ance targets under subparagraph (B) not later  
20 than 90 days after the date of establishment by  
21 the relevant State of performance targets pur-  
22 suant to sections 119(f), 148(h), 149(k), and  
23 167(i).

24 “(D) INTEGRATION OF OTHER PERFORM-  
25 ANCE-BASED PLANS.—A metropolitan planning

1 organization shall integrate in the metropolitan  
2 transportation planning process, directly or by  
3 reference, the goals, objectives, performance  
4 measures, and targets described in this para-  
5 graph into other State plans and processes re-  
6 quired as part of a performance-based program,  
7 including plans such as—

8 “(i) the State National Highway Sys-  
9 tem asset management plan;

10 “(ii) the State strategic highway safe-  
11 ty plan;

12 “(iii) the congestion mitigation and  
13 air quality performance plan;

14 “(iv) the national freight strategic  
15 plan; and

16 “(v) the statewide transportation  
17 plan.

18 “(E) USE OF PERFORMANCE MEASURES  
19 AND TARGETS.—The performance measures  
20 and targets established under this paragraph  
21 shall be used, at a minimum, by the relevant  
22 metropolitan planning organization as the basis  
23 for development of policies, programs, and in-  
24 vestment priorities reflected in the metropolitan

1 transportation plan and transportation improve-  
2 ment program.

3 “(3) FAILURE TO CONSIDER FACTORS.—The  
4 failure to take into consideration 1 or more of the  
5 factors specified in paragraphs (1) and (2) shall not  
6 be subject to review by any court under this title,  
7 chapter 53 of title 49, subchapter II of chapter 5 of  
8 title 5, or chapter 7 of title 5 in any matter affecting  
9 a metropolitan transportation plan, a transportation  
10 improvement program, a project or strategy, or the  
11 certification of a planning process.

12 “(4) PARTICIPATION BY INTERESTED PAR-  
13 TIES.—

14 “(A) IN GENERAL.—Each metropolitan  
15 planning organization shall provide to affected  
16 individuals, public agencies, and other inter-  
17 ested parties notice and a reasonable oppor-  
18 tunity to comment on the metropolitan trans-  
19 portation plan and transportation improvement  
20 program and any relevant scenarios.

21 “(B) METHODS.—In carrying out subpara-  
22 graph (A), the metropolitan planning organiza-  
23 tion shall, to the maximum extent practicable—

24 “(i) develop the metropolitan trans-  
25 portation plan and transportation improve-

1           ment program in consultation with inter-  
2           ested parties, as appropriate, including by  
3           the formation of advisory groups represent-  
4           ative of the community and interested par-  
5           ties that participate in the development of  
6           the metropolitan transportation plan and  
7           transportation improvement program;

8           “(ii) hold any public meetings at  
9           times and locations that are, as applica-  
10          ble—

11                   “(I) convenient; and

12                   “(II) in compliance with the  
13                   Americans with Disabilities Act of  
14                   1990 (42 U.S.C. 12101 et seq.);

15           “(iii) employ visualization techniques  
16           to describe metropolitan transportation  
17           plans and transportation improvement pro-  
18           grams; and

19           “(iv) make public information avail-  
20           able in appropriate electronically accessible  
21           formats and means, such as the Internet,  
22           to afford reasonable opportunity for con-  
23           sideration of public information under sub-  
24           paragraph (A).

1       “(i) DEVELOPMENT OF METROPOLITAN TRANSPOR-  
2 TATION PLAN.—

3           “(1) DEVELOPMENT.—

4               “(A) IN GENERAL.—Except as provided in  
5 subparagraph (B), not later than 5 years after  
6 the date of enactment of the MAP-21, and not  
7 less frequently than once every 5 years there-  
8 after, each metropolitan planning organization  
9 shall prepare and update, respectively, a metro-  
10 politan transportation plan for the relevant  
11 metropolitan planning area in accordance with  
12 this section.

13               “(B) EXCEPTIONS.—A metropolitan plan-  
14 ning organization shall prepare or update, as  
15 appropriate, the metropolitan transportation  
16 plan not less frequently than once every 4 years  
17 if the metropolitan planning organization is op-  
18 erating within—

19                   “(i) a nonattainment area; or

20                   “(ii) a maintenance area.

21           “(2) OTHER REQUIREMENTS.—A metropolitan  
22 transportation plan under this section shall—

23               “(A) be in a form that the Secretary deter-  
24 mines to be appropriate;

1           “(B) have a term of not less than 20  
2           years; and

3           “(C) contain, at a minimum—

4                   “(i) an identification of the existing  
5                   transportation infrastructure, including  
6                   highways, local streets and roads, bicycle  
7                   and pedestrian facilities, transit facilities  
8                   and services, commuter rail facilities and  
9                   services, high-speed and intercity pas-  
10                  senger rail facilities and services, freight  
11                  facilities (including freight railroad and  
12                  port facilities), multimodal and intermodal  
13                  facilities, and intermodal connectors that,  
14                  evaluated in the aggregate, function as an  
15                  integrated metropolitan transportation sys-  
16                  tem;

17                   “(ii) a description of the performance  
18                   measures and performance targets used in  
19                   assessing the existing and future perform-  
20                   ance of the transportation system in ac-  
21                   cordance with subsection (h)(2);

22                   “(iii) a description of the current and  
23                   projected future usage of the transpor-  
24                   tation system, including a projection based  
25                   on a preferred scenario, and further in-

1 cluding, to the extent practicable, an iden-  
2 tification of existing or planned transpor-  
3 tation rights-of-way, corridors, facilities,  
4 and related real properties;

5 “(iv) a system performance report  
6 evaluating the existing and future condi-  
7 tion and performance of the transportation  
8 system with respect to the performance  
9 targets described in subsection (h)(2) and  
10 updates in subsequent system performance  
11 reports, including—

12 “(I) progress achieved by the  
13 metropolitan planning organization in  
14 meeting the performance targets in  
15 comparison with system performance  
16 recorded in previous reports;

17 “(II) an accounting of the per-  
18 formance of the metropolitan planning  
19 organization on outlay of obligated  
20 project funds and delivery of projects  
21 that have reached substantial comple-  
22 tion in relation to—

23 “(aa) the projects included  
24 in the transportation improve-  
25 ment program; and

1                   “(bb) the projects that have  
2                   been removed from the previous  
3                   transportation improvement pro-  
4                   gram; and

5                   “(III) when appropriate, an anal-  
6                   ysis of how the preferred scenario has  
7                   improved the conditions and perform-  
8                   ance of the transportation system and  
9                   how changes in local policies, invest-  
10                  ments, and growth have impacted the  
11                  costs necessary to achieve the identi-  
12                  fied performance targets;

13                  “(v) recommended strategies and in-  
14                  vestments for improving system perform-  
15                  ance over the planning horizon, including  
16                  transportation systems management and  
17                  operations strategies, maintenance strate-  
18                  gies, demand management strategies, asset  
19                  management strategies, capacity and en-  
20                  hancement investments, State and local  
21                  economic development and land use im-  
22                  provements, intelligent transportation sys-  
23                  tems deployment, and technology adoption  
24                  strategies, as determined by the projected



1 support of the performance targets de-  
2 scribed in subsection (h)(2);

3 “(vi) recommended strategies and in-  
4 vestments to improve and integrate dis-  
5 ability-related access to transportation in-  
6 frastructure, including strategies and in-  
7 vestments based on a preferred scenario,  
8 when appropriate;

9 “(vii) investment priorities for using  
10 projected available and proposed revenues  
11 over the short- and long-term stages of the  
12 planning horizon, in accordance with the  
13 financial plan required under paragraph  
14 (4);

15 “(viii) a description of interstate com-  
16 pacts entered into in order to promote co-  
17 ordinated transportation planning in  
18 multistate areas, if applicable;

19 “(ix) an optional illustrative list of  
20 projects containing investments that—

21 “(I) are not included in the met-  
22 ropolitan transportation plan; but

23 “(II) would be so included if re-  
24 sources in addition to the resources

1 identified in the financial plan under  
2 paragraph (4) were available;

3 “(x) a discussion (developed in con-  
4 sultation with Federal, State, and tribal  
5 wildlife, land management, and regulatory  
6 agencies) of types of potential environ-  
7 mental and stormwater mitigation activi-  
8 ties and potential areas to carry out those  
9 activities, including activities that may  
10 have the greatest potential to restore and  
11 maintain the environmental functions af-  
12 fected by the metropolitan transportation  
13 plan; and

14 “(xi) recommended strategies and in-  
15 vestments, including those developed by  
16 the State as part of interstate compacts,  
17 agreements, or organizations, that support  
18 intercity transportation.

19 “(3) SCENARIO DEVELOPMENT.—When pre-  
20 paring the metropolitan transportation plan, the  
21 metropolitan planning organization may, while fit-  
22 ting the needs and complexity of their community,  
23 develop multiple scenarios for consideration as a  
24 part of the development of the metropolitan trans-  
25 portation plan, in accordance with the following:

1 “(A) The scenarios—

2 “(i) shall include potential regional in-  
3 vestment strategies for the planning hori-  
4 zon;

5 “(ii) shall include assumed distribu-  
6 tion of population and employment;

7 “(iii) may include a scenario that, to  
8 the maximum extent practicable, maintains  
9 baseline conditions for the performance  
10 measures identified in subsection (h)(2);

11 “(iv) may include a scenario that im-  
12 proves the baseline conditions for as many  
13 of the performance measures under sub-  
14 section (h)(2) as possible;

15 “(v) may include a revenue con-  
16 strained scenario based on total revenues  
17 reasonable expected to be available over  
18 the 20-year planning period and assumed  
19 population and employment; and

20 “(vi) may include estimated costs and  
21 potential revenues available to support  
22 each scenario.

23 “(B) In addition to the performance meas-  
24 ures identified in subsection (h)(2), scenarios  
25 developed under this paragraph may be evalu-

1           ated using locally developed metrics for the fol-  
2           lowing categories:

3                   “(i) Congestion and mobility, includ-  
4                   ing transportation use by mode.

5                   “(ii) Freight movement.

6                   “(iii) Safety.

7                   “(iv) Efficiency and costs to tax-  
8                   payers.

9           “(4) FINANCIAL PLAN.—A financial plan re-  
10          ferred to in paragraph (2)(C)(vii) shall—

11                   “(A) be prepared by each metropolitan  
12                   planning organization to support the metropoli-  
13                   tan transportation plan; and

14                   “(B) contain a description of each of the  
15                   following:

16                           “(i) Projected resource requirements  
17                           for implementing projects, strategies, and  
18                           services recommended in the metropolitan  
19                           transportation plan, including existing and  
20                           projected system operating and mainte-  
21                           nance needs, proposed enhancement and  
22                           expansions to the system, projected avail-  
23                           able revenue from Federal, State, local,  
24                           and private sources, and innovative financ-

1 ing techniques to finance projects and pro-  
2 grams.

3 “(ii) The projected difference between  
4 costs and revenues, and strategies for se-  
5 curing additional new revenue (such as by  
6 capture of some of the economic value cre-  
7 ated by any new investment).

8 “(iii) Estimates of future funds, to be  
9 developed cooperatively by the metropolitan  
10 planning organization, any public transpor-  
11 tation agency, and the State, that are rea-  
12 sonably expected to be available to support  
13 the investment priorities recommended in  
14 the metropolitan transportation plan.

15 “(iv) Each applicable project only if  
16 full funding can reasonably be anticipated  
17 to be available for the project within the  
18 time period contemplated for completion of  
19 the project.

20 “(5) COORDINATION WITH CLEAN AIR ACT  
21 AGENCIES.—The metropolitan planning organization  
22 for any metropolitan area that is a nonattainment  
23 area or maintenance area shall coordinate the devel-  
24 opment of a transportation plan with the process for  
25 development of the transportation control measures

1 of the State implementation plan required by the  
2 Clean Air Act (42 U.S.C. 7401 et seq.).

3 “(6) PUBLICATION.—On approval by the rel-  
4 evant metropolitan planning organization, a metro-  
5 politan transportation plan involving Federal partici-  
6 pation shall be, at such times and in such manner  
7 as the Secretary shall require—

8 “(A) published or otherwise made readily  
9 available by the metropolitan planning organi-  
10 zation for public review, including (to the max-  
11 imum extent practicable) in electronically acces-  
12 sible formats and means, such as the Internet;  
13 and

14 “(B) submitted for informational purposes  
15 to the applicable Governor.

16 “(7) CONSULTATION.—

17 “(A) IN GENERAL.—In each metropolitan  
18 area, the metropolitan planning organization  
19 shall consult, as appropriate, with Federal, trib-  
20 al, State, and local agencies responsible for land  
21 use management, natural resources, environ-  
22 mental protection, conservation, and historic  
23 preservation concerning the development of a  
24 metropolitan transportation plan.

1           “(B) ISSUES.—The consultation under  
2           subparagraph (A) shall involve, as available,  
3           consideration of—

4                   “(i) metropolitan transportation plans  
5                   with Federal, tribal, State, and local con-  
6                   servation plans or maps; and

7                   “(ii) inventories of natural or historic  
8                   resources.

9           “(8) SELECTION OF PROJECTS FROM ILLUS-  
10           TRATIVE LIST.—Notwithstanding paragraph (4), a  
11           State or metropolitan planning organization shall  
12           not be required to select any project from the illus-  
13           trative list of additional projects included in the met-  
14           ropolitan transportation plan under paragraph  
15           (2)(C)(ix).

16           “(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

17                   “(1) DEVELOPMENT.—

18                   “(A) IN GENERAL.—In cooperation with  
19                   the applicable State and any affected public  
20                   transportation operator, the metropolitan plan-  
21                   ning organization designated for a metropolitan  
22                   area shall develop a transportation improvement  
23                   program for the metropolitan planning area  
24                   that—

1           “(i) contains projects consistent with  
2           the current metropolitan transportation  
3           plan;

4           “(ii) reflects the investment priorities  
5           established in the current metropolitan  
6           transportation plan; and

7           “(iii) once implemented, will make sig-  
8           nificant progress toward achieving the tar-  
9           gets established under subsection (h)(2).

10          “(B) OPPORTUNITY FOR PARTICIPA-  
11          TION.—In developing the transportation im-  
12          provement program, the metropolitan planning  
13          organization, in cooperation with the State and  
14          any affected public transportation operator,  
15          shall provide an opportunity for participation by  
16          interested parties, in accordance with sub-  
17          section (h)(4).

18          “(C) UPDATING AND APPROVAL.—The  
19          transportation improvement program shall be—

20               “(i) updated not less frequently than  
21               once every 4 years, on a cycle compatible  
22               with the development of the relevant state-  
23               wide transportation improvement program  
24               under section 135; and



1                   “(ii) approved by the applicable Gov-  
2                   ernor.

3                   “(2) CONTENTS.—

4                   “(A) PRIORITY LIST.—The transportation  
5                   improvement program shall include a priority  
6                   list of proposed federally supported projects and  
7                   strategies to be carried out during the 4-year  
8                   period beginning on the date of adoption of the  
9                   transportation improvement program, and each  
10                  4-year period thereafter, using existing and rea-  
11                  sonably available revenues in accordance with  
12                  the financial plan under paragraph (3).

13                  “(B) DESCRIPTIONS.—Each project de-  
14                  scribed in the transportation improvement pro-  
15                  gram shall include sufficient descriptive mate-  
16                  rial (such as type of work, termini, length, and  
17                  other similar factors) to identify the project or  
18                  phase of the project and the effect that the  
19                  project or project phase will have in addressing  
20                  the targets described in subsection (h)(2).

21                  “(C) PERFORMANCE TARGET ACHIEVE-  
22                  MENT.—The transportation improvement pro-  
23                  gram shall include, to the maximum extent  
24                  practicable, a description of the anticipated ef-  
25                  fect of the transportation improvement program

1 on attainment of the performance targets estab-  
2 lished in the metropolitan transportation plan,  
3 linking investment priorities to those perform-  
4 ance targets.

5 “(D) ILLUSTRATIVE LIST OF PROJECTS.—

6 In developing a transportation improvement  
7 program, an optional illustrative list of projects  
8 may be prepared containing additional invest-  
9 ment priorities that—

10 “(i) are not included in the transpor-  
11 tation improvement program; but

12 “(ii) would be so included if resources  
13 in addition to the resources identified in  
14 the financial plan under paragraph (3)  
15 were available.

16 “(3) FINANCIAL PLAN.—A financial plan re-  
17 ferred to in paragraph (2)(D)(ii) shall—

18 “(A) be prepared by each metropolitan  
19 planning organization to support the transpor-  
20 tation improvement program; and

21 “(B) contain a description of each of the  
22 following:

23 “(i) Projected resource requirements  
24 for implementing projects, strategies, and  
25 services recommended in the transpor-

1           tation improvement program, including ex-  
2           isting and projected system operating and  
3           maintenance needs, proposed enhancement  
4           and expansions to the system, projected  
5           available revenue from Federal, State,  
6           local, and private sources, and innovative  
7           financing techniques to finance projects  
8           and programs.

9           “(ii) The projected difference between  
10          costs and revenues, and strategies for se-  
11          curing additional new revenue (such as by  
12          capture of some of the economic value cre-  
13          ated by any new investment).

14          “(iii) Estimates of future funds, to be  
15          developed cooperatively by the metropolitan  
16          planning organization, any public transpor-  
17          tation agency, and the State, that are rea-  
18          sonably expected to be available to support  
19          the investment priorities recommended in  
20          the transportation improvement program.

21          “(iv) Each applicable project, only if  
22          full funding can reasonably be anticipated  
23          to be available for the project within the  
24          time period contemplated for completion of  
25          the project.

1 “(4) INCLUDED PROJECTS.—

2 “(A) PROJECTS UNDER THIS TITLE AND  
3 CHAPTER 53 OF TITLE 49.—A transportation  
4 improvement program developed under this sub-  
5 section for a metropolitan area shall include a  
6 description of the projects within the area that  
7 are proposed for funding under chapter 1 of  
8 this title and chapter 53 of title 49.

9 “(B) PROJECTS UNDER CHAPTER 2.—

10 “(i) REGIONALLY SIGNIFICANT.—  
11 Each regionally significant project pro-  
12 posed for funding under chapter 2 shall be  
13 identified individually in the transportation  
14 improvement program.

15 “(ii) NONREGIONALLY SIGNIFI-  
16 CANT.—A description of each project pro-  
17 posed for funding under chapter 2 that is  
18 not determined to be regionally significant  
19 shall be contained in 1 line item or identi-  
20 fied individually in the transportation im-  
21 provement program.

22 “(5) OPPORTUNITY FOR PARTICIPATION.—Be-  
23 fore approving a transportation improvement pro-  
24 gram, a metropolitan planning organization, in co-  
25 operation with the State and any affected public

1 transportation operator, shall provide an opportunity  
2 for participation by interested parties in the develop-  
3 ment of the transportation improvement program, in  
4 accordance with subsection (h)(4).

5 “(6) SELECTION OF PROJECTS.—

6 “(A) IN GENERAL.—Each tier I MPO and  
7 tier II MPO shall select projects carried out  
8 within the boundaries of the applicable metro-  
9 politan planning area from the transportation  
10 improvement program, in consultation with the  
11 relevant State and on concurrence of the af-  
12 fected facility owner, for funds apportioned to  
13 the State under section 104(b)(2) and suballo-  
14 cated to the metropolitan planning area under  
15 section 133(d).

16 “(B) CMAQ PROJECTS.—Each tier I MPO  
17 shall select projects carried out within the  
18 boundaries of the applicable metropolitan plan-  
19 ning area from the transportation improvement  
20 program, in consultation with the relevant State  
21 and on concurrence of the affected facility  
22 owner, for funds apportioned to the State under  
23 section 104(b)(4) and suballocated to the met-  
24 ropolitan planning area under section 149(j).

1           “(C) MODIFICATIONS TO PROJECT PRI-  
2           ORITY.—Notwithstanding any other provision of  
3           law, approval by the Secretary shall not be re-  
4           quired to carry out a project included in a  
5           transportation improvement program in place of  
6           another project in the transportation improve-  
7           ment program.

8           “(7) PUBLICATION.—

9           “(A) IN GENERAL.—A transportation im-  
10          provement program shall be published or other-  
11          wise made readily available by the applicable  
12          metropolitan planning organization for public  
13          review in electronically accessible formats and  
14          means, such as the Internet.

15          “(B) ANNUAL LIST OF PROJECTS.—An an-  
16          nual list of projects, including investments in  
17          pedestrian walkways, bicycle transportation fa-  
18          cilities, and intermodal facilities that support  
19          intercity transportation, for which Federal  
20          funds have been obligated during the preceding  
21          fiscal year shall be published or otherwise made  
22          available by the cooperative effort of the State,  
23          transit operator, and metropolitan planning or-  
24          ganization in electronically accessible formats  
25          and means, such as the Internet, in a manner

1           that is consistent with the categories identified  
2           in the relevant transportation improvement pro-  
3           gram.

4           “(k) PLANNING REQUIREMENTS FOR TIER II  
5 MPOs.—

6           “(1) IN GENERAL.—The Secretary may provide  
7           for the performance-based development of a metro-  
8           politan transportation plan and transportation im-  
9           provement program for the metropolitan planning  
10          area of a tier II MPO, as the Secretary determines  
11          to be appropriate, taking into account—

12                  “(A) the complexity of transportation  
13                  needs in the area; and

14                  “(B) the technical capacity of the metro-  
15                  politan planning organization.

16          “(2) EVALUATION OF PERFORMANCE-BASED  
17          PLANNING.—In reviewing a tier II MPO under sub-  
18          section (m), the Secretary shall take into consider-  
19          ation the effectiveness of the tier II MPO in imple-  
20          menting and maintaining a performance-based plan-  
21          ning process that—

22                  “(A) addresses the targets described in  
23                  subsection (h)(2); and

24                  “(B) demonstrates progress on the  
25                  achievement of those targets.

1 “(1) CERTIFICATION.—

2 “(1) IN GENERAL.—The Secretary shall—

3 “(A) ensure that the metropolitan trans-  
4 portation planning process of a metropolitan  
5 planning organization is being carried out in ac-  
6 cordance with applicable Federal law; and

7 “(B) subject to paragraph (2), certify, not  
8 less frequently than once every 4 years, that the  
9 requirements of subparagraph (A) are met with  
10 respect to the metropolitan transportation plan-  
11 ning process.

12 “(2) REQUIREMENTS FOR CERTIFICATION.—

13 The Secretary may make a certification under para-  
14 graph (1)(B) if—

15 “(A) the metropolitan transportation plan-  
16 ning process complies with the requirements of  
17 this section and other applicable Federal law;  
18 and

19 “(B) a transportation improvement pro-  
20 gram for the metropolitan planning area has  
21 been approved by the relevant metropolitan  
22 planning organization and Governor.

23 “(3) DELEGATION OF AUTHORITY.—The Sec-  
24 retary may—



1           “(A) delegate to the appropriate State  
2 fact-finding authority regarding the certification  
3 of a tier II MPO under this subsection; and

4           “(B) make the certification under para-  
5 graph (1) in consultation with the State.

6           “(4) EFFECT OF FAILURE TO CERTIFY.—

7           “(A) WITHHOLDING OF PROJECT  
8 FUNDS.—If a metropolitan transportation plan-  
9 ning process of a metropolitan planning organi-  
10 zation is not certified under paragraph (1), the  
11 Secretary may withhold up to 20 percent of the  
12 funds attributable to the metropolitan planning  
13 area of the metropolitan planning organization  
14 for projects funded under this title and chapter  
15 53 of title 49.

16           “(B) RESTORATION OF WITHHELD  
17 FUNDS.—Any funds withheld under subpara-  
18 graph (A) shall be restored to the metropolitan  
19 planning area on the date of certification of the  
20 metropolitan transportation planning process by  
21 the Secretary.

22           “(5) PUBLIC INVOLVEMENT.—In making a de-  
23 termination regarding certification under this sub-  
24 section, the Secretary shall provide for public in-

1       volvement appropriate to the metropolitan planning  
2       area under review.

3       “(m) PERFORMANCE-BASED PLANNING PROCESSES  
4 EVALUATION.—

5           “(1) IN GENERAL.—The Secretary shall estab-  
6       lish criteria to evaluate the effectiveness of the per-  
7       formance-based planning processes of metropolitan  
8       planning organizations under this section, taking  
9       into consideration the following:

10           “(A) The extent to which the metropolitan  
11       planning organization has achieved, or is cur-  
12       rently making substantial progress toward  
13       achieving, the targets specified in subsection  
14       (h)(2), taking into account whether the metro-  
15       politan planning organization developed mean-  
16       ingful performance targets.

17           “(B) The extent to which the metropolitan  
18       planning organization has used proven best  
19       practices that help ensure transportation invest-  
20       ment that is efficient and cost-effective.

21           “(C) The extent to which the metropolitan  
22       planning organization—

23           “(i) has developed an investment proc-  
24       ess that relies on public input and aware-

1           ness to ensure that investments are trans-  
2           parent and accountable; and

3           “(ii) provides regular reports allowing  
4           the public to access the information being  
5           collected in a format that allows the public  
6           to meaningfully assess the performance of  
7           the metropolitan planning organization.

8           “(2) REPORT.—

9           “(A) IN GENERAL.—Not later than 5 years  
10          after the date of enactment of the MAP-21, the  
11          Secretary shall submit to Congress a report  
12          evaluating—

13           “(i) the overall effectiveness of per-  
14           formance-based planning as a tool for  
15           guiding transportation investments; and

16           “(ii) the effectiveness of the perform-  
17           ance-based planning process of each metro-  
18           politan planning organization under this  
19           section.

20          “(B) PUBLICATION.—The report under  
21          subparagraph (A) shall be published or other-  
22          wise made available in electronically accessible  
23          formats and means, including on the Internet.

24          “(n) ADDITIONAL REQUIREMENTS FOR CERTAIN  
25          NONATTAINMENT AREAS.—

1           “(1) IN GENERAL.—Notwithstanding any other  
2           provision of this title or chapter 53 of title 49, Fed-  
3           eral funds may not be advanced in any metropolitan  
4           planning area classified as a nonattainment area or  
5           maintenance area for any highway project that will  
6           result in a significant increase in the carrying capac-  
7           ity for single-occupant vehicles, unless the owner or  
8           operator of the project demonstrates that the project  
9           will achieve or make substantial progress toward  
10          achieving the targets described in subsection (h)(2).

11          “(2) APPLICABILITY.—This subsection applies  
12          to any nonattainment area or maintenance area  
13          within the boundaries of a metropolitan planning  
14          area, as determined under subsection (c).

15          “(o) EFFECT OF SECTION.—Nothing in this section  
16          provides to any metropolitan planning organization the  
17          authority to impose any legal requirement on any trans-  
18          portation facility, provider, or project not subject to the  
19          requirements of this title or chapter 53 of title 49.

20          “(p) FUNDING.—Funds apportioned under section  
21          104(b)(6) of this title and set aside under section 5305(g)  
22          of title 49 shall be available to carry out this section.

23          “(q) CONTINUATION OF CURRENT REVIEW PRAC-  
24          TICE.—

1           “(1) IN GENERAL.—In consideration of the fac-  
2           tors described in paragraph (2), any decision by the  
3           Secretary concerning a metropolitan transportation  
4           plan or transportation improvement program shall  
5           not be considered to be a Federal action subject to  
6           review under the National Environmental Policy Act  
7           of 1969 (42 U.S.C. 4321 et seq.).

8           “(2) DESCRIPTION OF FACTORS.—The factors  
9           referred to in paragraph (1) are that—

10                   “(A) metropolitan transportation plans and  
11                   transportation improvement programs are sub-  
12                   ject to a reasonable opportunity for public com-  
13                   ment;

14                   “(B) the projects included in metropolitan  
15                   transportation plans and transportation im-  
16                   provement programs are subject to review  
17                   under the National Environmental Policy Act of  
18                   1969 (42 U.S.C. 4321 et seq.); and

19                   “(C) decisions by the Secretary concerning  
20                   metropolitan transportation plans and transpor-  
21                   tation improvement programs have not been re-  
22                   viewed under the National Environmental Pol-  
23                   icy Act of 1969 (42 U.S.C. 4321 et seq.) as of  
24                   January 1, 1997.”.

1 **SEC. 1202. STATEWIDE AND NONMETROPOLITAN TRANS-**  
2 **PORTATION PLANNING.**

3 (a) IN GENERAL.—Section 135 of title 23, United  
4 States Code, is amended to read as follows:

5 **“§ 135. Statewide and nonmetropolitan transpor-**  
6 **tation planning**

7 “(a) STATEWIDE TRANSPORTATION PLANS AND  
8 STIPS.—

9 “(1) DEVELOPMENT.—

10 “(A) IN GENERAL.—To accomplish the  
11 policy objectives described in section 134(a),  
12 each State shall develop a statewide transpor-  
13 tation plan and a statewide transportation im-  
14 provement program for all areas of the State in  
15 accordance with this section.

16 “(B) INCORPORATION OF METROPOLITAN  
17 TRANSPORTATION PLANS AND TIPS.—Each  
18 State shall incorporate in the statewide trans-  
19 portation plan and statewide transportation im-  
20 provement program, without change or by ref-  
21 erence, the metropolitan transportation plans  
22 and transportation improvement programs, re-  
23 spectively, for each metropolitan planning area  
24 in the State.

25 “(C) NONMETROPOLITAN AREAS.—Each  
26 State shall coordinate with local officials in

1 small urbanized and nonurbanized areas of the  
2 State in preparing the nonmetropolitan portions  
3 of statewide transportation plans and statewide  
4 transportation improvement programs.

5 “(2) CONTENTS.—The statewide transportation  
6 plan and statewide transportation improvement pro-  
7 gram developed for each State shall provide for the  
8 development and integrated management and oper-  
9 ation of transportation systems and facilities (includ-  
10 ing accessible pedestrian walkways, bicycle transpor-  
11 tation facilities, and intermodal facilities that sup-  
12 port intercity transportation) that will function as—

13 “(A) an intermodal transportation system  
14 for the State; and

15 “(B) an integral part of an intermodal  
16 transportation system for the United States.

17 “(3) PROCESS.—The process for developing the  
18 statewide transportation plan and statewide trans-  
19 portation improvement program shall—

20 “(A) provide for consideration of all modes  
21 of transportation; and

22 “(B) be continuing, cooperative, and com-  
23 prehensive to the degree appropriate, based on  
24 the complexity of the transportation needs to be  
25 addressed.

1 “(b) COORDINATION.—

2 “(1) IN GENERAL.—Each State shall—

3 “(A) coordinate planning carried out under  
4 this section with—

5 “(i) the transportation planning ac-  
6 tivities carried out under section 134 for  
7 metropolitan areas of the State; and

8 “(ii) statewide trade and economic de-  
9 velopment planning activities and related  
10 multistate planning efforts;

11 “(B) coordinate planning carried out under  
12 this section with the transportation planning  
13 activities carried out by each nonmetropolitan  
14 planning organization in the State, as applica-  
15 ble; and

16 “(C) develop the transportation portion of  
17 the State implementation plan as required by  
18 the Clean Air Act (42 U.S.C. 7401 et seq.).

19 “(2) MULTISTATE AREAS.—

20 “(A) IN GENERAL.—The Secretary shall  
21 encourage each Governor with responsibility for  
22 a portion of a multistate metropolitan planning  
23 area and the appropriate metropolitan planning  
24 organizations to provide coordinated transpor-



1           tation planning for the entire metropolitan  
2           area.

3           “(B) COORDINATION ALONG DESIGNATED  
4           TRANSPORTATION CORRIDORS.—The Secretary  
5           shall encourage each Governor with responsi-  
6           bility for a portion of a multistate transpor-  
7           tation corridor to provide coordinated transpor-  
8           tation planning for the entire designated cor-  
9           ridor.

10          “(C) INTERSTATE COMPACTS.—For pur-  
11          poses of this section, any 2 or more States—

12                 “(i) may enter into compacts, agree-  
13                 ments, or organizations not in conflict with  
14                 any Federal law for cooperative efforts and  
15                 mutual assistance in support of activities  
16                 authorized under this section, as the activi-  
17                 ties relate to interstate areas and localities  
18                 within the States;

19                 “(ii) may establish such agencies  
20                 (joint or otherwise) as the States deter-  
21                 mine to be appropriate for ensuring the ef-  
22                 fectiveness of the agreements and com-  
23                 pacts; and

24                 “(iii) are encouraged to enter into  
25                 such compacts, agreements, or organiza-

1           tions as are appropriate to develop plan-  
2           ning documents in support of intercity or  
3           multistate area projects, facilities, and  
4           services, the relevant components of which  
5           shall be reflected in statewide transpor-  
6           tation improvement programs and state-  
7           wide transportation plans.

8           “(D) RESERVATION OF RIGHTS.—The  
9           right to alter, amend, or repeal any interstate  
10          compact or agreement entered into under this  
11          subsection is expressly reserved.

12          “(c) RELATIONSHIP WITH OTHER PLANNING OFFI-  
13          CIALS.—

14                 “(1) IN GENERAL.—The Secretary shall encour-  
15                 age each State to cooperate with Federal, tribal,  
16                 State, and local officers and entities responsible for  
17                 other types of planning activities that are affected  
18                 by transportation in the relevant area (including  
19                 planned growth, economic development, infrastruc-  
20                 ture services, housing, other public services, environ-  
21                 mental protection, airport operations, high-speed and  
22                 intercity passenger rail, freight rail, port access, and  
23                 freight movements), to the maximum extent prac-  
24                 ticable, to ensure that the statewide and nonmetro-  
25                 politan planning process, statewide transportation

1 plans, and statewide transportation improvement  
2 programs are developed with due consideration for  
3 other related planning activities in the State.

4 “(2) INCLUSION.—Cooperation under para-  
5 graph (1) shall include the design and delivery of  
6 transportation services within the State that are pro-  
7 vided by—

8 “(A) recipients of assistance under sections  
9 202, 203, and 204;

10 “(B) recipients of assistance under chapter  
11 53 of title 49;

12 “(C) government agencies and nonprofit  
13 organizations (including representatives of the  
14 agencies and organizations) that receive Federal  
15 assistance from a source other than the Depart-  
16 ment of Transportation to provide non-  
17 emergency transportation services; and

18 “(D) sponsors of regionally significant pro-  
19 grams, projects, and services that are related to  
20 transportation and receive assistance from any  
21 public or private source.

22 “(d) SCOPE OF PLANNING PROCESS.—

23 “(1) IN GENERAL.—The statewide transpor-  
24 tation planning process for a State under this sec-

1       tion shall provide for consideration of projects, strat-  
2       egies, and services that will—

3               “(A) support the economic vitality of the  
4       United States, the State, nonmetropolitan  
5       areas, and metropolitan areas, especially by en-  
6       abling global competitiveness, productivity, and  
7       efficiency;

8               “(B) increase the safety of the transpor-  
9       tation system for motorized and nonmotorized  
10       users;

11              “(C) increase the security of the transpor-  
12       tation system for motorized and nonmotorized  
13       users;

14              “(D) increase the accessibility and mobility  
15       of individuals and freight;

16              “(E) protect and enhance the environment,  
17       promote energy conservation, improve the qual-  
18       ity of life, and promote consistency between  
19       transportation improvements and State and  
20       local planned growth and economic development  
21       patterns;

22              “(F) enhance the integration and  
23       connectivity of the transportation system,  
24       across and between modes, for individuals and  
25       freight;

1           “(G) increase efficient system management  
2 and operation; and

3           “(H) emphasize the preservation of the ex-  
4 isting transportation system.

5           “(2) PERFORMANCE-BASED APPROACH.—

6           “(A) IN GENERAL.—The statewide trans-  
7 portation planning process shall provide for the  
8 establishment and use of a performance-based  
9 approach to transportation decisionmaking to  
10 support the national goals described in section  
11 150(b).

12           “(B) PERFORMANCE TARGETS.—

13           “(i) IN GENERAL.—Each State shall  
14 establish performance targets that address  
15 the performance measures described in sec-  
16 tions 119(f), 148(h), 149(k), and 167(i) to  
17 use in tracking attainment of critical out-  
18 comes for the region of the State.

19           “(ii) COORDINATION.—Selection of  
20 performance targets by a State shall be co-  
21 ordinated with relevant metropolitan plan-  
22 ning organizations to ensure consistency,  
23 to the maximum extent practicable.

24           “(C) INTEGRATION OF OTHER PERFORM-  
25 ANCE-BASED PLANS.—A State shall integrate

1 into the statewide transportation planning proc-  
2 ess, directly or by reference, the goals, objec-  
3 tives, performance measures, and targets de-  
4 scribed in this paragraph in other State plans  
5 and processes required as part of a perform-  
6 ance-based program, including plans such as—

7 “(i) the State National Highway Sys-  
8 tem asset management plan;

9 “(ii) the State strategic highway safe-  
10 ty plan;

11 “(iii) the congestion mitigation and  
12 air quality performance plan; and

13 “(iv) the national freight strategic  
14 plan.

15 “(D) USE OF PERFORMANCE MEASURES  
16 AND TARGETS.—The performance measures  
17 and targets established under this paragraph  
18 shall be used, at a minimum, by a State as the  
19 basis for development of policies, programs, and  
20 investment priorities reflected in the statewide  
21 transportation plan and statewide transpor-  
22 tation improvement program.

23 “(3) FAILURE TO CONSIDER FACTORS.—The  
24 failure to take into consideration 1 or more of the  
25 factors specified in paragraphs (1) and (2) shall not

1 be subject to review by any court under this title,  
2 chapter 53 of title 49, subchapter II of chapter 5 of  
3 title 5, or chapter 7 of title 5 in any matter affecting  
4 a statewide transportation plan, a statewide trans-  
5 portation improvement program, a project or strat-  
6 egy, or the certification of a planning process.

7 “(4) PARTICIPATION BY INTERESTED PAR-  
8 TIES.—

9 “(A) IN GENERAL.—Each State shall pro-  
10 vide to affected individuals, public agencies, and  
11 other interested parties notice and a reasonable  
12 opportunity to comment on the statewide trans-  
13 portation plan and statewide transportation im-  
14 provement program.

15 “(B) METHODS.—In carrying out subpara-  
16 graph (A), the State shall, to the maximum ex-  
17 tent practicable—

18 “(i) develop the statewide transpor-  
19 tation plan and statewide transportation  
20 improvement program in consultation with  
21 interested parties, as appropriate, includ-  
22 ing by the formation of advisory groups  
23 representative of the State and interested  
24 parties that participate in the development  
25 of the statewide transportation plan and

1 statewide transportation improvement pro-  
2 gram;

3 “(ii) hold any public meetings at  
4 times and locations that are, as applica-  
5 ble—

6 “(I) convenient; and

7 “(II) in compliance with the  
8 Americans with Disabilities Act of  
9 1990 (42 U.S.C. 12101 et seq.);

10 “(iii) employ visualization techniques  
11 to describe statewide transportation plans  
12 and statewide transportation improvement  
13 programs; and

14 “(iv) make public information avail-  
15 able in appropriate electronically accessible  
16 formats and means, such as the Internet,  
17 to afford reasonable opportunity for con-  
18 sideration of public information under sub-  
19 paragraph (A).

20 “(e) COORDINATION AND CONSULTATION.—

21 “(1) METROPOLITAN AREAS.—

22 “(A) IN GENERAL.—Each State shall de-  
23 velop a statewide transportation plan and state-  
24 wide transportation improvement program for  
25 each metropolitan area in the State by incor-



1 porating, without change or by reference, at a  
2 minimum, as prepared by each metropolitan  
3 planning organization designated for the metro-  
4 politan area under section 134—

5 “(i) all regionally significant projects  
6 to be carried out during the 10-year period  
7 beginning on the effective date of the rel-  
8 evant existing metropolitan transportation  
9 plan; and

10 “(ii) all projects to be carried out dur-  
11 ing the 4-year period beginning on the ef-  
12 fective date of the relevant transportation  
13 improvement program.

14 “(B) PROJECTED COSTS.—Each metropoli-  
15 tan planning organization shall provide to each  
16 applicable State a description of the projected  
17 costs of implementing the projects included in  
18 the metropolitan transportation plan of the  
19 metropolitan planning organization for purposes  
20 of long-range financial planning and fiscal con-  
21 straint.

22 “(2) NONMETROPOLITAN AREAS.—With respect  
23 to nonmetropolitan areas in a State, the statewide  
24 transportation plan and statewide transportation im-  
25 provement program of the State shall be developed

1 in coordination with affected nonmetropolitan local  
2 officials with responsibility for transportation.

3 “(3) INDIAN TRIBAL AREAS.—With respect to  
4 each area of a State under the jurisdiction of an In-  
5 dian tribe, the statewide transportation plan and  
6 statewide transportation improvement program of  
7 the State shall be developed in consultation with—

8 “(A) the tribal government; and

9 “(B) the Secretary of the Interior.

10 “(4) FEDERAL LAND MANAGEMENT AGEN-  
11 CIES.—With respect to each area of a State under  
12 the jurisdiction of a Federal land management agen-  
13 cy, the statewide transportation plan and statewide  
14 transportation improvement program of the State  
15 shall be developed in consultation with the relevant  
16 Federal land management agency.

17 “(5) CONSULTATION, COMPARISON, AND CON-  
18 sideration.—

19 “(A) IN GENERAL.—A statewide transpor-  
20 tation plan shall be developed, as appropriate,  
21 in consultation with Federal, tribal, State, and  
22 local agencies responsible for land use manage-  
23 ment, natural resources, infrastructure permit-  
24 ting, environmental protection, conservation,  
25 and historic preservation.

1                   “(B) COMPARISON AND CONSIDERATION.—  
2                   Consultation under subparagraph (A) shall in-  
3                   volve the comparison of statewide transpor-  
4                   tation plans to, as available—

5                               “(i) Federal, tribal, State, and local  
6                               conservation plans or maps; and

7                               “(ii) inventories of natural or historic  
8                               resources.

9                   “(f) STATEWIDE TRANSPORTATION PLAN.—

10                               “(1) DEVELOPMENT.—

11                                       “(A) IN GENERAL.—Each State shall de-  
12                                       velop a statewide transportation plan, the fore-  
13                                       cast period of which shall be not less than 20  
14                                       years for all areas of the State, that provides  
15                                       for the development and implementation of the  
16                                       intermodal transportation system of the State.

17                                       “(B) INITIAL PERIOD.—A statewide trans-  
18                                       portation plan shall include, at a minimum, for  
19                                       the first 10-year period of the statewide trans-  
20                                       portation plan, the identification of existing and  
21                                       future transportation facilities that will function  
22                                       as an integrated statewide transportation sys-  
23                                       tem, giving emphasis to those facilities that  
24                                       serve important national, statewide, and re-  
25                                       gional transportation functions.

1           “(C) SUBSEQUENT PERIOD.—For the sec-  
2           ond 10-year period of the statewide transpor-  
3           tation plan (referred to in this subsection as the  
4           ‘outer years period’), a statewide transportation  
5           plan—

6                   “(i) may include identification of fu-  
7                   ture transportation facilities; and

8                   “(ii) shall describe the policies and  
9                   strategies that provide for the development  
10                  and implementation of the intermodal  
11                  transportation system of the State.

12           “(D) OTHER REQUIREMENTS.—A state-  
13           wide transportation plan shall—

14                   “(i) include, for the 20-year period  
15                   covered by the statewide transportation  
16                   plan, a description of—

17                           “(I) the projected aggregate cost  
18                           of projects anticipated by a State to  
19                           be implemented; and

20                           “(II) the revenues necessary to  
21                           support the projects;

22                   “(ii) include, in such form as the Sec-  
23                   retary determines to be appropriate, a de-  
24                   scription of—

1           “(I) the existing transportation  
2 infrastructure, including an identifica-  
3 tion of highways, local streets and  
4 roads, bicycle and pedestrian facilities,  
5 transit facilities and services, com-  
6 muter rail facilities and services, high-  
7 speed and intercity passenger rail fa-  
8 cilities and services, freight facilities  
9 (including freight railroad and port  
10 facilities), multimodal and intermodal  
11 facilities, and intermodal connectors  
12 that, evaluated in the aggregate, func-  
13 tion as an integrated transportation  
14 system;

15           “(II) the performance measures  
16 and performance targets used in as-  
17 sessing the existing and future per-  
18 formance of the transportation system  
19 described in subsection (d)(2);

20           “(III) the current and projected  
21 future usage of the transportation  
22 system, including, to the maximum  
23 extent practicable, an identification of  
24 existing or planned transportation

1 rights-of-way, corridors, facilities, and  
2 related real properties;

3 “(IV) a system performance re-  
4 port evaluating the existing and fu-  
5 ture condition and performance of the  
6 transportation system with respect to  
7 the performance targets described in  
8 subsection (d)(2) and updates to sub-  
9 sequent system performance reports,  
10 including—

11 “(aa) progress achieved by  
12 the State in meeting performance  
13 targets, as compared to system  
14 performance recorded in previous  
15 reports; and

16 “(bb) an accounting of the  
17 performance by the State on out-  
18 lay of obligated project funds and  
19 delivery of projects that have  
20 reached substantial completion,  
21 in relation to the projects cur-  
22 rently on the statewide transpor-  
23 tation improvement program and  
24 those projects that have been re-  
25 moved from the previous state-

1 wide transportation improvement  
2 program;

3 “(V) recommended strategies and  
4 investments for improving system per-  
5 formance over the planning horizon,  
6 including transportation systems man-  
7 agement and operations strategies,  
8 maintenance strategies, demand man-  
9 agement strategies, asset management  
10 strategies, capacity and enhancement  
11 investments, land use improvements,  
12 intelligent transportation systems de-  
13 ployment and technology adoption  
14 strategies as determined by the pro-  
15 jected support of targets described in  
16 subsection (d)(2);

17 “(VI) recommended strategies  
18 and investments to improve and inte-  
19 grate disability-related access to  
20 transportation infrastructure;

21 “(VII) investment priorities for  
22 using projected available and proposed  
23 revenues over the short- and long-  
24 term stages of the planning horizon,

1 in accordance with the financial plan  
2 required under paragraph (2);

3 “(VIII) a description of inter-  
4 state compacts entered into in order  
5 to promote coordinated transportation  
6 planning in multistate areas, if appli-  
7 cable;

8 “(IX) an optional illustrative list  
9 of projects containing investments  
10 that—

11 “(aa) are not included in the  
12 statewide transportation plan;  
13 but

14 “(bb) would be so included if  
15 resources in addition to the re-  
16 sources identified in the financial  
17 plan under paragraph (2) were  
18 available;

19 “(X) a discussion (developed in  
20 consultation with Federal, State, and  
21 tribal wildlife, land management, and  
22 regulatory agencies) of types of poten-  
23 tial environmental and stormwater  
24 mitigation activities and potential  
25 areas to carry out those activities, in-



1 including activities that may have the  
2 greatest potential to restore and  
3 maintain the environmental functions  
4 affected by the statewide transpor-  
5 tation plan; and

6 “(XI) recommended strategies  
7 and investments, including those de-  
8 veloped by the State as part of inter-  
9 state compacts, agreements, or orga-  
10 nizations, that support intercity trans-  
11 portation; and

12 “(iii) be updated by the State not less  
13 frequently than once every 5 years.

14 “(2) FINANCIAL PLAN.—A financial plan re-  
15 ferred to in paragraph (1)(D)(ii)(VII) shall—

16 “(A) be prepared by each State to support  
17 the statewide transportation plan; and

18 “(B) contain a description of each of the  
19 following:

20 “(i) Projected resource requirements  
21 during the 20-year planning horizon for  
22 implementing projects, strategies, and  
23 services recommended in the statewide  
24 transportation plan, including existing and  
25 projected system operating and mainte-

1 nance needs, proposed enhancement and  
2 expansions to the system, projected avail-  
3 able revenue from Federal, State, local,  
4 and private sources, and innovative financ-  
5 ing techniques to finance projects and pro-  
6 grams.

7 “(ii) The projected difference between  
8 costs and revenues, and strategies for se-  
9 curing additional new revenue (such as by  
10 capture of some of the economic value cre-  
11 ated by any new investment).

12 “(iii) Estimates of future funds, to be  
13 developed cooperatively by the State, any  
14 public transportation agency, and relevant  
15 metropolitan planning organizations, that  
16 are reasonably expected to be available to  
17 support the investment priorities rec-  
18 ommended in the statewide transportation  
19 plan.

20 “(iv) Each applicable project, only if  
21 full funding can reasonably be anticipated  
22 to be available for the project within the  
23 time period contemplated for completion of  
24 the project.

1           “(v) For the outer years period of the  
2           statewide transportation plan, a descrip-  
3           tion of the aggregate cost ranges or bands,  
4           subject to the condition that any future  
5           funding source shall be reasonably ex-  
6           pected to be available to support the pro-  
7           jected cost ranges or bands.

8           “(3) COORDINATION WITH CLEAN AIR ACT  
9           AGENCIES.—For any nonmetropolitan area that is a  
10          nonattainment area or maintenance area, the State  
11          shall coordinate the development of the statewide  
12          transportation plan with the process for development  
13          of the transportation control measures of the State  
14          implementation plan required by the Clean Air Act  
15          (42 U.S.C. 7401 et seq.).

16          “(4) PUBLICATION.—A statewide transpor-  
17          tation plan involving Federal and non-Federal par-  
18          ticipation programs, projects, and strategies shall be  
19          published or otherwise made readily available by the  
20          State for public review, including (to the maximum  
21          extent practicable) in electronically accessible for-  
22          mats and means, such as the Internet, in such man-  
23          ner as the Secretary shall require.

24          “(5) SELECTION OF PROJECTS FROM ILLUS-  
25          TRATIVE LIST.—Notwithstanding paragraph (2), a

1 State shall not be required to select any project from  
2 the illustrative list of additional projects included in  
3 the statewide transportation plan under paragraph  
4 (1)(D)(ii)(IX).

5 “(g) STATEWIDE TRANSPORTATION IMPROVEMENT  
6 PROGRAMS.—

7 “(1) DEVELOPMENT.—

8 “(A) IN GENERAL.—In cooperation with  
9 nonmetropolitan officials with responsibility for  
10 transportation and affected public transpor-  
11 tation operators, the State shall develop a state-  
12 wide transportation improvement program for  
13 the State that—

14 “(i) includes projects consistent with  
15 the statewide transportation plan;

16 “(ii) reflects the investment priorities  
17 established in the statewide transportation  
18 plan; and

19 “(iii) once implemented, makes sig-  
20 nificant progress toward achieving the tar-  
21 gets described in subsection (d)(2).

22 “(B) OPPORTUNITY FOR PARTICIPA-  
23 TION.—In developing a statewide transportation  
24 improvement program, the State, in cooperation  
25 with affected public transportation operators,

1 shall provide an opportunity for participation by  
2 interested parties in the development of the  
3 statewide transportation improvement program,  
4 in accordance with subsection (e).

5 “(C) OTHER REQUIREMENTS.—

6 “(i) IN GENERAL.—A statewide trans-  
7 portation improvement program shall—

8 “(I) cover a period of not less  
9 than 4 years; and

10 “(II) be updated not less fre-  
11 quently than once every 4 years, or  
12 more frequently, as the Governor de-  
13 termines to be appropriate.

14 “(ii) INCORPORATION OF TIPS.—A  
15 statewide transportation improvement pro-  
16 gram shall incorporate any relevant trans-  
17 portation improvement program developed  
18 by a metropolitan planning organization  
19 under section 134, without change.

20 “(iii) PROJECTS.—Each project in-  
21 cluded in a statewide transportation im-  
22 provement program shall be—

23 “(I) consistent with the statewide  
24 transportation plan developed under  
25 this section for the State;

1           “(II) identical to a project or  
2           phase of a project described in a rel-  
3           evant transportation improvement  
4           program; and

5           “(III) for any project located in a  
6           nonattainment area or maintenance  
7           area, carried out in accordance with  
8           the applicable State air quality imple-  
9           mentation plan developed under the  
10          Clean Air Act (42 U.S.C. 7401 et  
11          seq.).

12          “(2) CONTENTS.—

13           “(A) PRIORITY LIST.—A statewide trans-  
14           portation improvement program shall include a  
15           priority list of proposed federally supported  
16           projects and strategies, to be carried out during  
17           the 4-year period beginning on the date of  
18           adoption of the statewide transportation im-  
19           provement program, and during each 4-year pe-  
20           riod thereafter, using existing and reasonably  
21           available revenues in accordance with the finan-  
22           cial plan under paragraph (3).

23           “(B) DESCRIPTIONS.—Each project or  
24           phase of a project included in a statewide trans-  
25           portation improvement program shall include

1 sufficient descriptive material (such as type of  
2 work, termini, length, estimated completion  
3 date, and other similar factors) to identify—

4 “(i) the project or project phase; and

5 “(ii) the effect that the project or  
6 project phase will have in addressing the  
7 targets described in subsection (d)(2).

8 “(C) PERFORMANCE TARGET ACHIEVE-  
9 MENT.—A statewide transportation improve-  
10 ment program shall include, to the maximum  
11 extent practicable, a discussion of the antici-  
12 pated effect of the statewide transportation im-  
13 provement program toward achieving the per-  
14 formance targets established in the statewide  
15 transportation plan, linking investment prior-  
16 ities to those performance targets.

17 “(D) ILLUSTRATIVE LIST OF PROJECTS.—

18 An optional illustrative list of projects may be  
19 prepared containing additional investment pri-  
20 orities that—

21 “(i) are not included in the statewide  
22 transportation improvement program; but

23 “(ii) would be so included if resources  
24 in addition to the resources identified in

1           the financial plan under paragraph (3)  
2           were available.

3           “(3) FINANCIAL PLAN.—A financial plan re-  
4           ferred to in paragraph (2)(A) shall—

5           “(A) be prepared by each State to support  
6           the statewide transportation improvement pro-  
7           gram; and

8           “(B) contain a description of each of the  
9           following:

10           “(i) Projected resource requirements  
11           for implementing projects, strategies, and  
12           services recommended in the statewide  
13           transportation improvement program, in-  
14           cluding existing and projected system oper-  
15           ating and maintenance needs, proposed en-  
16           hancement and expansions to the system,  
17           projected available revenue from Federal,  
18           State, local, and private sources, and inno-  
19           vative financing techniques to finance  
20           projects and programs.

21           “(ii) The projected difference between  
22           costs and revenues, and strategies for se-  
23           curing additional new revenue (such as by  
24           capture of some of the economic value cre-  
25           ated by any new investment).



1           “(iii) Estimates of future funds, to be  
2           developed cooperatively by the State and  
3           relevant metropolitan planning organiza-  
4           tions and public transportation agencies,  
5           that are reasonably expected to be avail-  
6           able to support the investment priorities  
7           recommended in the statewide transpor-  
8           tation improvement program.

9           “(iv) Each applicable project, only if  
10          full funding can reasonably be anticipated  
11          to be available for the project within the  
12          time period contemplated for completion of  
13          the project.

14          “(4) INCLUDED PROJECTS.—

15                 “(A) PROJECTS UNDER THIS TITLE AND  
16                 CHAPTER 53 OF TITLE 49.—A statewide trans-  
17                 portation improvement program developed  
18                 under this subsection for a State shall include  
19                 the projects within the State that are proposed  
20                 for funding under chapter 1 of this title and  
21                 chapter 53 of title 49.

22                 “(B) PROJECTS UNDER CHAPTER 2.—

23                         “(i) REGIONALLY SIGNIFICANT.—  
24                         Each regionally significant project pro-  
25                         posed for funding under chapter 2 shall be

1 identified individually in the statewide  
2 transportation improvement program.

3 “(ii) NONREGIONALLY SIGNIFI-  
4 CANT.—A description of each project pro-  
5 posed for funding under chapter 2 that is  
6 not determined to be regionally significant  
7 shall be contained in 1 line item or identi-  
8 fied individually in the statewide transpor-  
9 tation improvement program.

10 “(5) PUBLICATION.—

11 “(A) IN GENERAL.—A statewide transpor-  
12 tation improvement program shall be published  
13 or otherwise made readily available by the State  
14 for public review in electronically accessible for-  
15 mats and means, such as the Internet.

16 “(B) ANNUAL LIST OF PROJECTS.—An an-  
17 nual list of projects, including investments in  
18 pedestrian walkways, bicycle transportation fa-  
19 cilities, and intermodal facilities that support  
20 intercity transportation, for which Federal  
21 funds have been obligated during the preceding  
22 fiscal year shall be published or otherwise made  
23 available by the cooperative effort of the State,  
24 transit operator, and relevant metropolitan  
25 planning organizations in electronically acces-

1           sible formats and means, such as the Internet,  
2           in a manner that is consistent with the cat-  
3           egories identified in the relevant statewide  
4           transportation improvement program.

5           “(6) PROJECT SELECTION FOR URBANIZED  
6           AREAS WITH POPULATIONS OF FEWER THAN 200,000  
7           NOT REPRESENTED BY DESIGNATED MPOS.—  
8           Projects carried out in urbanized areas with popu-  
9           lations of fewer than 200,000 individuals, and that  
10          are not represented by designated metropolitan plan-  
11          ning organizations, shall be selected, from the ap-  
12          proved statewide transportation improvement pro-  
13          gram (including projects carried out on the National  
14          Highway System and other projects carried out  
15          under this title or under sections 5310 and 5311 of  
16          title 49) by the State, in cooperation with the af-  
17          fected nonmetropolitan planning organization, if any  
18          exists, and in consultation with the affected non-  
19          metropolitan area local officials with responsibility  
20          for transportation.

21          “(7) APPROVAL BY SECRETARY.—

22                  “(A) IN GENERAL.—Not less frequently  
23                  than once every 4 years, a statewide transpor-  
24                  tation improvement program developed under  
25                  this subsection shall be reviewed and approved

1 by the Secretary, based on the current planning  
2 finding of the Secretary under subparagraph  
3 (B).

4 “(B) PLANNING FINDING.—The Secretary  
5 shall make a planning finding referred to in  
6 subparagraph (A) not less frequently than once  
7 every 5 years regarding whether the transpor-  
8 tation planning process through which statewide  
9 transportation plans and statewide transpor-  
10 tation improvement programs are developed is  
11 consistent with this section and section 134.

12 “(8) MODIFICATIONS TO PROJECT PRIORITY.—  
13 Notwithstanding any other provision of law, ap-  
14 proval by the Secretary shall not be required to  
15 carry out a project included in an approved state-  
16 wide transportation improvement program in place  
17 of another project in the statewide transportation  
18 improvement program.

19 “(h) CERTIFICATION.—

20 “(1) IN GENERAL.—The Secretary shall—

21 “(A) ensure that the statewide transpor-  
22 tation planning process of a State is being car-  
23 ried out in accordance with applicable Federal  
24 law; and

1           “(B) subject to paragraph (2), certify, not  
 2           less frequently than once every 5 years, that the  
 3           requirements of subparagraph (A) are met with  
 4           respect to the statewide transportation planning  
 5           process.

6           “(2) REQUIREMENTS FOR CERTIFICATION.—  
 7           The Secretary may make a certification under para-  
 8           graph (1)(B) if—

9                   “(A) the statewide transportation planning  
 10                   process complies with the requirements of this  
 11                   section and other applicable Federal law; and

12                   “(B) a statewide transportation improve-  
 13                   ment program for the State has been approved  
 14                   by the Governor of the State.

15           “(3) EFFECT OF FAILURE TO CERTIFY.—

16                   “(A) WITHHOLDING OF PROJECT  
 17                   FUNDS.—If a statewide transportation planning  
 18                   process of a State is not certified under para-  
 19                   graph (1), the Secretary may withhold up to 20  
 20                   percent of the funds attributable to the State  
 21                   for projects funded under this title and chapter  
 22                   53 of title 49.

23                   “(B) RESTORATION OF WITHHELD  
 24                   FUNDS.—Any funds withheld under subpara-  
 25                   graph (A) shall be restored to the State on the

1           date of certification of the statewide transpor-  
2           tation planning process by the Secretary.

3           “(4) PUBLIC INVOLVEMENT.—In making a de-  
4           termination regarding certification under this sub-  
5           section, the Secretary shall provide for public in-  
6           volvement appropriate to the State under review.

7           “(i) PERFORMANCE-BASED PLANNING PROCESSES  
8           EVALUATION.—

9           “(1) IN GENERAL.—The Secretary shall estab-  
10          lish criteria to evaluate the effectiveness of the per-  
11          formance-based planning processes of States, taking  
12          into consideration the following:

13                 “(A) The extent to which the State has  
14                 achieved, or is currently making substantial  
15                 progress toward achieving, the targets described  
16                 in subsection (d)(2), taking into account wheth-  
17                 er the State developed meaningful performance  
18                 targets.

19                 “(B) The extent to which the State has  
20                 used proven best practices that help ensure  
21                 transportation investment that is efficient and  
22                 cost-effective.

23                 “(C) The extent to which the State—

24                         “(i) has developed an investment proc-  
25                         ess that relies on public input and aware-

1           ness to ensure that investments are trans-  
2           parent and accountable; and

3           “(ii) provides regular reports allowing  
4           the public to access the information being  
5           collected in a format that allows the public  
6           to meaningfully assess the performance of  
7           the State.

8           “(2) REPORT.—

9           “(A) IN GENERAL.—Not later than 5 years  
10          after the date of enactment of the MAP-21, the  
11          Secretary shall submit to Congress a report  
12          evaluating—

13               “(i) the overall effectiveness of per-  
14               formance-based planning as a tool for  
15               guiding transportation investments; and

16               “(ii) the effectiveness of the perform-  
17               ance-based planning process of each State.

18           “(B) PUBLICATION.—The report under  
19          subparagraph (A) shall be published or other-  
20          wise made available in electronically accessible  
21          formats and means, including on the Internet.

22          “(j) FUNDING.—Funds apportioned under section  
23          104(b)(6) of this title and set aside under section 5305(g)  
24          of title 49 shall be available to carry out this section.

1       “(k) CONTINUATION OF CURRENT REVIEW PRAC-  
2 TICE.—

3           “(1) IN GENERAL.—In consideration of the fac-  
4 tors described in paragraph (2), any decision by the  
5 Secretary concerning a statewide transportation plan  
6 or statewide transportation improvement program  
7 shall not be considered to be a Federal action sub-  
8 ject to review under the National Environmental  
9 Policy Act of 1969 (42 U.S.C. 4321 et seq.).

10          “(2) DESCRIPTION OF FACTORS.—The factors  
11 referred to in paragraph (1) are that—

12           “(A) statewide transportation plans and  
13 statewide transportation improvement programs  
14 are subject to a reasonable opportunity for pub-  
15 lic comment;

16           “(B) the projects included in statewide  
17 transportation plans and statewide transpor-  
18 tation improvement programs are subject to re-  
19 view under the National Environmental Policy  
20 Act of 1969 (42 U.S.C. 4321 et seq.); and

21           “(C) decisions by the Secretary concerning  
22 statewide transportation plans and statewide  
23 transportation improvement programs have not  
24 been reviewed under the National Environ-



1           mental Policy Act of 1969 (42 U.S.C. 4321 et  
2           seq.) as of January 1, 1997.”.

3           (b) CONFORMING AMENDMENT.—The analysis for  
4 chapter 1 of title 23, United States Code, is amended by  
5 striking the item relating to section 135 and inserting the  
6 following:

“135. Statewide and nonmetropolitan transportation planning.”.

7 **SEC. 1203. NATIONAL GOALS.**

8           (a) IN GENERAL.—Section 150 of title 23, United  
9 States Code, is amended to read as follows:

10 **“§ 150. National goals**

11           “(a) DECLARATION OF POLICY.—Performance man-  
12 agement will transform the Federal-aid highway program  
13 and provide a means to the most efficient investment of  
14 Federal transportation funds by refocusing on national  
15 transportation goals, increasing the accountability and  
16 transparency of the Federal-aid highway program, and im-  
17 proving project decisionmaking through performance-  
18 based planning and programming.

19           “(b) NATIONAL GOALS.—It is in the interest of the  
20 United States to focus the Federal-aid highway program  
21 on the following national goals:

22           “(1) SAFETY.—To achieve a significant reduc-  
23 tion in traffic fatalities and serious injuries on all  
24 public roads.

1           “(2) INFRASTRUCTURE CONDITION.—To main-  
2           tain the highway infrastructure asset system in a  
3           state of good repair.

4           “(3) SYSTEM RELIABILITY.—To improve the ef-  
5           ficiency of the surface transportation system.

6           “(4) FREIGHT MOVEMENT AND ECONOMIC VI-  
7           TALITY.—To improve the national freight network,  
8           strengthen the ability of rural communities to access  
9           national and international trade markets, and sup-  
10          port regional economic development.

11          “(5) ENVIRONMENTAL SUSTAINABILITY.—To  
12          enhance the performance of the transportation sys-  
13          tem while protecting and enhancing the natural envi-  
14          ronment.”.

15          (b) CONFORMING AMENDMENT.—The analysis for  
16          chapter 1 of title 23, United States Code, is amended by  
17          striking the item relating to section 150 and inserting the  
18          following:

“150. National goals.”.

## 19       **Subtitle C—Acceleration of Project** 20                                   **Delivery**

### 21       **SEC. 1301. PROJECT DELIVERY INITIATIVE.**

22          (a) DECLARATION OF POLICY.—It is the policy of the  
23          United States that—

24                  (1) it is in the national interest for the Depart-  
25          ment, State departments of transportation, transit

1 agencies, and all other recipients of Federal trans-  
2 portation funds—

3 (A) to accelerate project delivery and re-  
4 duce costs; and

5 (B) to ensure that the planning, design,  
6 engineering, construction, and financing of  
7 transportation projects is done in an efficient  
8 and effective manner, promoting accountability  
9 for public investments and encouraging greater  
10 private sector involvement in project financing  
11 and delivery while enhancing safety and pro-  
12 tecting the environment;

13 (2) delay in the delivery of transportation  
14 projects increases project costs, harms the economy  
15 of the United States, and impedes the travel of the  
16 people of the United States and the shipment of  
17 goods for the conduct of commerce; and

18 (3) the Secretary shall identify and promote the  
19 deployment of innovation aimed at reducing the time  
20 and money required to deliver transportation  
21 projects while enhancing safety and protecting the  
22 environment.

23 (b) ESTABLISHMENT OF INITIATIVE.—

1           (1) IN GENERAL.—To advance the policy de-  
2           scribed in subsection (a), the Secretary shall carry  
3           out a project delivery initiative under this section.

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

6                   (A) to develop and advance the use of best  
7                   practices to accelerate project delivery and re-  
8                   duce costs across all modes of transportation  
9                   and expedite the deployment of technology and  
10                  innovation;

11                  (B) to implement provisions of law de-  
12                  signed to accelerate project delivery; and

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

16           (3) ADVANCING THE USE OF BEST PRAC-  
17           TICES.—

18                   (A) IN GENERAL.—In carrying out the ini-  
19                   tiative under this section, the Secretary shall  
20                   identify and advance best practices to reduce  
21                   delivery time and project costs, from planning  
22                   through construction, for transportation  
23                   projects and programs of projects regardless of  
24                   mode and project size.

1 (B) ADMINISTRATION.—To advance the  
2 use of best practices, the Secretary shall—

3 (i) engage interested parties, affected  
4 communities, resource agencies, and other  
5 stakeholders to gather information regard-  
6 ing opportunities for accelerating project  
7 delivery and reducing costs;

8 (ii) establish a clearinghouse for the  
9 collection, documentation, and advance-  
10 ment of existing and new innovative ap-  
11 proaches and best practices;

12 (iii) disseminate information through  
13 a variety of means to transportation stake-  
14 holders on new innovative approaches and  
15 best practices; and

16 (iv) provide technical assistance to as-  
17 sist transportation stakeholders in the use  
18 of flexibility authority to resolve project  
19 delays and accelerate project delivery if  
20 feasible.

21 (4) IMPLEMENTATION OF ACCELERATED  
22 PROJECT DELIVERY.—The Secretary shall ensure  
23 that the provisions of this subtitle designed to accel-  
24 erate project delivery are fully implemented, includ-  
25 ing—

1 (A) expanding eligibility of early acquisi-  
2 tion of property prior to completion of environ-  
3 mental review under the National Environ-  
4 mental Policy Act of 1969 (42 U.S.C. 4321 et  
5 seq.);

6 (B) allowing the use of the construction  
7 manager or general contractor method of con-  
8 tracting in the Federal-aid highway system; and

9 (C) establishing a demonstration program  
10 to streamline the relocation process by permit-  
11 ting a lump-sum payment for acquisition and  
12 relocation if elected by the displaced occupant.

13 **SEC. 1302. CLARIFIED ELIGIBILITY FOR EARLY ACQUISI-**  
14 **TION ACTIVITIES PRIOR TO COMPLETION OF**  
15 **NEPA REVIEW.**

16 (a) IN GENERAL.—The acquisition of real property  
17 in anticipation of a federally assisted or approved surface  
18 transportation project that may use the property shall not  
19 be prohibited prior to the completion of reviews of the sur-  
20 face transportation project under the National Environ-  
21 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if the  
22 acquisition does not—

23 (1) have an adverse environmental effect; or

24 (2)(A) limit the choice of reasonable alter-  
25 natives for the proposed project; or

1 (B) prevent the lead agency from making an  
2 impartial decision as to whether to select an alter-  
3 native that is being considered during the environ-  
4 mental review process.

5 (b) EARLY ACQUISITION OF REAL PROPERTY INTER-  
6 ESTS FOR HIGHWAYS.—Section 108 of title 23, United  
7 States Code, is amended—

8 (1) in the section heading by inserting “**inter-**  
9 **ests**” after “**real property**”;

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

12 (3) in subsection (c)—

13 (A) in the subsection heading by striking  
14 “RIGHTS-OF-WAY” and inserting “REAL PROP-  
15 erty INTERESTS”;

16 (B) in paragraph (1)—

17 (i) in the matter preceding subpara-  
18 graph (A) by inserting “at any time” after  
19 “may be used”; and

20 (ii) in subparagraph (A)—

21 (I) by striking “rights-of-way”  
22 the first place it appears and inserting  
23 “real property interests”; and

24 (II) by striking “, if the rights-  
25 of-way are subsequently incorporated

1                   into a project eligible for surface  
2                   transportation program funds”; and

3                   (C) by striking paragraph (2) and insert-  
4                   ing the following:

5                   “(2) TERMS AND CONDITIONS.—

6                   “(A) ACQUISITION OF REAL PROPERTY IN-  
7                   TERESTS.—

8                   “(i) IN GENERAL.—Subject to the  
9                   other provisions of this section, prior to  
10                  completion of the review process for the  
11                  project required by the National Environ-  
12                  mental Policy Act of 1969 (42 U.S.C.  
13                  4321 et seq.), a public authority may carry  
14                  out acquisition of real property interests  
15                  that may be used for a project.

16                  “(ii) REQUIREMENTS.—An acquisition  
17                  under clause (i) may be authorized by  
18                  project agreement and is eligible for Fed-  
19                  eral-aid reimbursement as a project ex-  
20                  pense if the Secretary finds that the acqui-  
21                  sition—

22                               “(I) will not cause any significant  
23                               adverse environmental impact;

24                               “(II) will not limit the choice of  
25                               reasonable alternatives for the project



1 or otherwise influence the decision of  
2 the Secretary on any approval re-  
3 quired for the project;

4 “(III) does not prevent the lead  
5 agency from making an impartial de-  
6 cision as to whether to accept an al-  
7 ternative that is being considered in  
8 the environmental review process;

9 “(IV) is consistent with the State  
10 transportation planning process under  
11 section 135;

12 “(V) complies with other applica-  
13 ble Federal laws (including regula-  
14 tions);

15 “(VI) will be acquired through  
16 negotiation, without the threat of con-  
17 demnation; and

18 “(VII) will not result in a reduc-  
19 tion or elimination of benefits or as-  
20 sistance to a displaced person re-  
21 quired by the Uniform Relocation As-  
22 sistance and Real Property Acquisi-  
23 tion Policies Act of 1970 (42 U.S.C.  
24 4601 et seq.) and title VI of the Civil

1 Rights Act of 1964 (42 U.S.C. 2000d  
2 et seq.).

3 “(B) DEVELOPMENT.—Real property in-  
4 terests acquired under this subsection may not  
5 be developed in anticipation of a project until  
6 all required environmental reviews for the  
7 project have been completed.

8 “(C) REIMBURSEMENT.—If Federal-aid re-  
9 imbursement is made for real property interests  
10 acquired early under this section and the real  
11 property interests are not subsequently incor-  
12 porated into a project eligible for surface trans-  
13 portation funds within the time allowed by sub-  
14 section (a)(2), the Secretary shall offset the  
15 amount reimbursed against funds apportioned  
16 to the State.

17 “(D) OTHER CONDITIONS.—The Secretary  
18 may establish such other conditions or restric-  
19 tions on acquisitions as the Secretary deter-  
20 mines to be appropriate.”.

21 **SEC. 1303. EFFICIENCIES IN CONTRACTING.**

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

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

3           “(A) PROCEDURE.—

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

9           “(ii) PRECONSTRUCTION PHASE.—In  
10 the preconstruction phase of a contract  
11 under this subparagraph, the construction  
12 manager shall provide the contracting  
13 agency with advice relating to scheduling,  
14 work sequencing, cost engineering,  
15 constructability, cost estimating, and risk  
16 identification.

17           “(iii) AGREEMENT TO PRICE.—

18           “(I) IN GENERAL.—Prior to the  
19 start of the second phase of a contract  
20 under this subparagraph, the owner  
21 and the construction manager may  
22 agree to a price for the construction  
23 of the project or a portion of the  
24 project.

1                   “(II) RESULT.—If an agreement  
2                   is reached, the construction manager  
3                   shall become the general contractor  
4                   for the construction of the project at  
5                   the negotiated schedule and price.

6                   “(B) SELECTION.—A contract shall be  
7                   awarded to a construction manager or general  
8                   contractor under this paragraph using a com-  
9                   petitive selection process under which the con-  
10                  tract is awarded on the basis of—

11                   “(i) qualifications;

12                   “(ii) experience;

13                   “(iii) best value; or

14                   “(iv) any other combination of factors  
15                  considered appropriate by the contracting  
16                  agency.

17                  “(C) TIMING.—

18                   “(i) IN GENERAL.—Prior to the com-  
19                  pletion of the environmental review process  
20                  required under section 102 of the National  
21                  Environmental Policy Act of 1969 (42  
22                  U.S.C. 4332), a contracting agency may  
23                  issue requests for proposals, proceed with  
24                  the award of the first phase of construc-  
25                  tion manager or general contractor con-

1           tract, and issue notices to proceed with  
2           preliminary design, to the extent that those  
3           actions do not limit any reasonable range  
4           of alternatives.

5           “(ii) NEPA PROCESS.—

6                   “(I) IN GENERAL.—A con-  
7                   tracting agency shall not proceed with  
8                   the award of the second phase, and  
9                   shall not proceed, or permit any con-  
10                  sultant or contractor to proceed, with  
11                  final design or construction until com-  
12                  pletion of the environmental review  
13                  process required under section 102 of  
14                  the National Environmental Policy  
15                  Act of 1969 (42 U.S.C. 4332).

16                  “(II) REQUIREMENT.—The Sec-  
17                  retary shall require that a contract in-  
18                  clude appropriate provisions to ensure  
19                  achievement of the objectives of sec-  
20                  tion 102 of the National Environ-  
21                  mental Policy Act of 1969 (42 U.S.C.  
22                  4332) and compliance with other ap-  
23                  plicable Federal laws and regulations  
24                  occurs.

1                   “(iii) SECRETARIAL APPROVAL.—

2                   Prior to authorizing construction activities,  
3                   the Secretary shall approve—

4                   “(I) the estimate of the con-  
5                   tracting agency for the entire project;  
6                   and

7                   “(II) any price agreement with  
8                   the general contractor for the project  
9                   or a portion of the project.

10                  “(iv) TERMINATION PROVISION.—The  
11                  Secretary shall require a contract to in-  
12                  clude an appropriate termination provision  
13                  in the event that a no-build alternative is  
14                  selected.”.

15                  (b) REGULATIONS.—The Secretary shall promulgate  
16                  such regulations as are necessary to carry out the amend-  
17                  ment made by subsection (a).

18                  (c) EFFECT ON EXPERIMENTAL PROGRAM.—Nothing  
19                  in this section or the amendment made by this section af-  
20                  fects the authority to carry out, or any project carried out  
21                  under, any experimental program concerning construction  
22                  manager risk that is being carried out by the Secretary  
23                  as of the date of enactment of this Act.

24                  **SEC. 1304. INNOVATIVE PROJECT DELIVERY METHODS.**

25                  (a) DECLARATION OF POLICY.—

1           (1) IN GENERAL.—Congress declares that it is  
2           in the national interest to promote the use of inno-  
3           vative technologies and practices that increase the  
4           efficiency of construction of, improve the safety of,  
5           and extend the service life of highways and bridges.

6           (2) INCLUSIONS.—The innovative technologies  
7           and practices described in paragraph (1) include  
8           state-of-the-art intelligent transportation system  
9           technologies, elevated performance standards, and  
10          new highway construction business practices that  
11          improve highway safety and quality, accelerate  
12          project delivery, and reduce congestion related to  
13          highway construction.

14          (b) FEDERAL SHARE.—Section 120(c) of title 23,  
15          United States Code, is amended by adding at the end the  
16          following:

17                 “(3) INNOVATIVE PROJECT DELIVERY.—

18                         “(A) IN GENERAL.—Except as provided in  
19                         subparagraph (C), the Federal share payable on  
20                         account of a project or activity carried out with  
21                         funds apportioned under paragraph (1), (2), or  
22                         (5) of section 104(b) may, at the discretion of  
23                         the State, be up to 100 percent for any such  
24                         project, program, or activity that the Secretary  
25                         determines—

1           “(i) contains innovative project deliv-  
2           ery methods that improve work zone safety  
3           for motorists or workers and the quality of  
4           the facility;

5           “(ii) contains innovative technologies,  
6           manufacturing processes, financing, or  
7           contracting methods that improve the qual-  
8           ity, extend the service life, or decrease the  
9           long-term costs of maintaining highways  
10          and bridges;

11          “(iii) accelerates project delivery while  
12          complying with other applicable Federal  
13          laws (including regulations) and not caus-  
14          ing any significant adverse environmental  
15          impact; or

16          “(iv) reduces congestion related to  
17          highway construction.

18          “(B) EXAMPLES.—Projects, programs, and  
19          activities described in subparagraph (A) may  
20          include the use of—

21               “(i) prefabricated bridge elements and  
22               systems and other technologies to reduce  
23               bridge construction time;

24               “(ii) innovative construction equip-  
25               ment, materials, or techniques, including



1 the use of in-place recycling technology  
2 and digital 3-dimensional modeling tech-  
3 nologies;

4 “(iii) innovative contracting methods,  
5 including the design-build and the con-  
6 struction manager-general contractor con-  
7 tracting methods;

8 “(iv) intelligent compaction equip-  
9 ment; or

10 “(v) contractual provisions that offer  
11 a contractor an incentive payment for early  
12 completion of the project, program, or ac-  
13 tivity, subject to the condition that the in-  
14 centives are accounted for in the financial  
15 plan of the project, when applicable.

16 “(C) LIMITATIONS.—

17 “(i) IN GENERAL.—In each fiscal  
18 year, a State may use the authority under  
19 subparagraph (A) for up to 10 percent of  
20 the combined apportionments of the State  
21 under paragraphs (1), (2), and (5) of sec-  
22 tion 104(b).

23 “(ii) FEDERAL SHARE INCREASE.—  
24 The Federal share payable on account of a  
25 project or activity described in subpara-

1 graph (A) may be increased by up to 5  
2 percent of the total project cost.”.

3 **SEC. 1305. ASSISTANCE TO AFFECTED STATE AND FEDERAL**  
4 **AGENCIES.**

5 Section 139(j) of title 23, United States Code, is  
6 amended by adding at the end the following:

7 “(6) MEMORANDUM OF UNDERSTANDING.—  
8 Prior to providing funds approved by the Secretary  
9 for dedicated staffing at an affected Federal agency  
10 under paragraphs (1) and (2), the affected Federal  
11 agency and the State agency shall enter into a  
12 memorandum of understanding that establishes the  
13 projects and priorities to be addressed by the use of  
14 the funds.”.

15 **SEC. 1306. APPLICATION OF CATEGORICAL EXCLUSIONS**  
16 **FOR MULTIMODAL PROJECTS.**

17 (a) IN GENERAL.—Section 304 of title 49, United  
18 States Code, is amended to read as follows:

19 **“§ 304. Application of categorical exclusions for**  
20 **multimodal projects**

21 “(a) DEFINITIONS.—In this section:

22 “(1) COOPERATING AUTHORITY.—The term ‘co-  
23 operating authority’ means a Department of Trans-  
24 portation operating authority that is not the lead au-  
25 thority.

1           “(2) LEAD AUTHORITY.—The term ‘lead au-  
2           thority’ means a Department of Transportation op-  
3           erating administration or secretarial office that—

4                   “(A) is the lead authority over a proposed  
5           multimodal project; and

6                   “(B) has determined that the components  
7           of the project that fall under the modal exper-  
8           tise of the lead authority—

9                           “(i) satisfy the conditions for a cat-  
10                           egorical exclusion under the National Envi-  
11                           ronmental Policy Act of 1969 (42 U.S.C.  
12                           4321 et seq.) implementing regulations or  
13                           procedures of the lead authority; and

14                           “(ii) do not require the preparation of  
15                           an environmental assessment or an envi-  
16                           ronmental impact statement under that  
17                           Act.

18           “(3) MULTIMODAL PROJECT.—The term  
19           ‘multimodal project’ has the meaning given the term  
20           in section 139(a) of title 23.

21           “(b) EXERCISE OF AUTHORITIES.—The authorities  
22           granted in this section may be exercised for a multimodal  
23           project, class of projects, or program of projects that are  
24           carried out under this title.

1       “(c) APPLICATION OF CATEGORICAL EXCLUSIONS  
2 FOR MULTIMODAL PROJECTS.—When considering the en-  
3 vironmental impacts of a proposed multimodal project, a  
4 lead authority may apply a categorical exclusion des-  
5 ignated under the implementing regulations or procedures  
6 of a cooperating authority for other components of the  
7 project, on the conditions that—

8               “(1) the multimodal project is funded under 1  
9 grant agreement administered by the lead authority;

10              “(2) the multimodal project has components  
11 that require the expertise of a cooperating authority  
12 to assess the environmental impacts of the compo-  
13 nents;

14              “(3) the component of the project to be covered  
15 by the categorical exclusion of the cooperating au-  
16 thority has independent utility;

17              “(4) the cooperating authority, in consultation  
18 with the lead authority, follows National Environ-  
19 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)  
20 implementing regulations or procedures and deter-  
21 mines that a categorical exclusion under that Act  
22 applies to the components; and

23              “(5) the lead authority has determined that—

24                      “(A) the project, using the categorical ex-  
25 clusions of the lead and cooperating authorities,

1 does not individually or cumulatively have a sig-  
2 nificant impact on the environment; and

3 “(B) extraordinary circumstances do not  
4 exist that merit further analysis and docu-  
5 mentation in an environmental impact state-  
6 ment or environmental assessment required  
7 under the National Environmental Policy Act of  
8 1969 (42 U.S.C. 4321 et seq.).

9 “(d) MODAL COOPERATION.—

10 “(1) IN GENERAL.—A cooperating authority  
11 shall provide modal expertise to a lead authority  
12 with administrative authority over a multimodal  
13 project on such aspects of the project in which the  
14 cooperating authority has expertise.

15 “(2) USE OF CATEGORICAL EXCLUSION.—In a  
16 case described in paragraph (1), the 1 or more cat-  
17 egorical exclusions of a cooperating authority may be  
18 applied by the lead authority once the cooperating  
19 authority reviews the project on behalf of the lead  
20 authority and determines the project satisfies the  
21 conditions for a categorical exclusion under the Na-  
22 tional Environmental Policy Act of 1969 (42 U.S.C.  
23 4321 et seq.) implementing regulations or proce-  
24 dures of the cooperating authority and this sec-  
25 tion.”.

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

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

4 **SEC. 1307. STATE ASSUMPTION OF RESPONSIBILITIES FOR**  
 5 **CATEGORICAL EXCLUSIONS.**

6 Section 326 of title 23, United States Code, is  
 7 amended—

8 (1) in subsection (c) by striking paragraph (3)  
 9 and inserting the following:

10 “(3) SOVEREIGN IMMUNITY.—By executing an  
 11 agreement with the Secretary and assuming the re-  
 12 sponsibilities of the Secretary under this section, the  
 13 State waives the sovereign immunity of the State  
 14 under the 11th Amendment of the Constitution from  
 15 suit in Federal court and expressly consents to ac-  
 16 cept the jurisdiction of the Federal courts with re-  
 17 spect to any action relating to the compliance, dis-  
 18 charge, and enforcement of any responsibility of the  
 19 Secretary that the State assumes.”;

20 (2) by striking subsection (d) and inserting the  
 21 following:

22 “(d) TERMINATION.—

23 “(1) TERMINATION BY THE SECRETARY.—The  
 24 Secretary may terminate any assumption of respon-  
 25 sibility under a memorandum of understanding on a

1 determination that the State is not adequately car-  
 2 rying out the responsibilities assigned to the State.

3 “(2) **TERMINATION BY THE STATE.**—The State  
 4 may terminate the participation of the State in the  
 5 program at any time by providing to the Secretary  
 6 a notice by not later than the date that is 90 days  
 7 before the date of termination, and subject to such  
 8 terms and conditions as the Secretary may pro-  
 9 vide.”; and

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

11 “(f) **LEGAL FEES.**—A State assuming the respon-  
 12 sibilities of the Secretary under this section for a specific  
 13 project may use funds apportioned to the State under sec-  
 14 tion 104(b)(2) for attorneys fees directly attributable to  
 15 eligible activities associated with the project.”.

16 **SEC. 1308. SURFACE TRANSPORTATION PROJECT DELIV-**  
 17 **ERY PROGRAM.**

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

20 (1) in the section heading by striking “**PILOT**”;

21 (2) in subsection (a)—

22 (A) in paragraph (1) by striking “pilot”;

23 and

24 (B) in paragraph (2)—

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

3 “(ii) the Secretary may not assign—

4 “(I) any responsibility imposed  
5 on the Secretary by section 134 or  
6 135; or

7 “(II) responsibility for any con-  
8 formity determination required under  
9 section 176 of the Clean Air Act (42  
10 U.S.C. 7506).”; and

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

13 “(F) SOVEREIGN IMMUNITY.—By exe-  
14 cuting an agreement with the Secretary and as-  
15 suming the responsibilities of the Secretary  
16 under this section, the State waives the sov-  
17 ereign immunity of the State under the 11th  
18 Amendment of the Constitution from suit in  
19 Federal court and expressly consents to accept  
20 the jurisdiction of the Federal courts with re-  
21 spect to any action relating to the compliance,  
22 discharge, and enforcement of any responsibility  
23 of the Secretary that the State assumes.

24 “(G) LEGAL FEES.—A State assuming the  
25 responsibilities of the Secretary under this sec-



1           tion for a specific project may use funds appor-  
2           tioned to the State under section 104(b)(2) for  
3           attorneys fees directly attributable to eligible  
4           activities associated with the project.”;

5           (3) in subsection (b)—

6                 (A) by striking paragraph (1);

7                 (B) by redesignating paragraphs (2)  
8           through (5) as paragraphs (1) through (4), re-  
9           spectively; and

10                (C) in subparagraph (A) of paragraph (3)  
11           (as so redesignated) by striking “(2)” and in-  
12           serting “(1)”;

13           (4) in subsection (c)—

14                 (A) in paragraph (3)(D) by striking the  
15           period at the end and inserting a semicolon;  
16           and

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

18                 “(4) require the State to provide to the Sec-  
19           retary any information the Secretary considers nec-  
20           essary to ensure that the State is adequately car-  
21           rying out the responsibilities assigned to the State;

22                 “(5) require the Secretary—

23                 “(A) after a period of 5 years, to evaluate  
24           the ability of the State to carry out the respon-  
25           sibility assumed under this section;

1           “(B) if the Secretary determines that the  
2           State is not ready to effectively carry out the  
3           responsibilities the State has assumed, to re-  
4           evaluate the readiness of the State every 3  
5           years, or at such other frequency as the Sec-  
6           retary considers appropriate, after the initial 5-  
7           year evaluation, until the State is ready to as-  
8           sume the responsibilities on a permanent basis;  
9           and

10           “(C) once the Secretary determines that  
11           the State is ready to permanently assume the  
12           responsibilities of the Secretary, not to require  
13           any further evaluations; and

14           “(6) require the State to provide the Secretary  
15           with any information, including regular written re-  
16           ports, as the Secretary may require in conducting  
17           evaluations under paragraph (5).”;

18           (5) by striking subsection (g);

19           (6) by redesignating subsections (h) and (i) as  
20           subsections (g) and (h), respectively; and

21           (7) in subsection (h) (as so redesignated)—

22           (A) by striking paragraph (1);

23           (B) by redesignating paragraph (2) as  
24           paragraph (1); and

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

3 “(2) **TERMINATION BY THE STATE.**—The State  
4 may terminate the participation of the State in the  
5 program at any time by providing to the Secretary  
6 a notice by not later than the date that is 90 days  
7 before the date of termination, and subject to such  
8 terms and conditions as the Secretary may pro-  
9 vide.”.

10 (b) **CONFORMING AMENDMENT.**—The item relating  
11 to section 327 in the analysis of title 23, United States  
12 Code, is amended to read as follows:

“327. Surface transportation project delivery program.”.

13 **SEC. 1309. CATEGORICAL EXCLUSION FOR PROJECTS WITH-**  
14 **IN THE RIGHT-OF-WAY.**

15 (a) **IN GENERAL.**—Not later than 30 days after the  
16 date of enactment of this Act, the Secretary shall publish  
17 a notice of proposed rulemaking for a categorical exclusion  
18 that meets the definitions (as in effect on that date) of  
19 section 1508.4 of title 40, Code of Federal Regulations,  
20 and section 771.117 of title 23, Code of Federal Regula-  
21 tions, for a project (as defined in section 101(a) of title  
22 23, United States Code)—

23 (1) that is located solely within the right-of-way  
24 of an existing highway, such as new turn lanes and  
25 bus pull-offs;

1           (2) that does not include the addition of a  
2 through lane or new interchange; and

3           (3) for which the project sponsor demonstrates  
4 that the project—

5                 (A) is intended to improve safety, alleviate  
6 congestion, or improve air quality; or

7                 (B) would improve or maintain pavement  
8 or structural conditions or achieve a state of  
9 good repair.

10         (b) NOTICE.—Not later than 60 days after the date  
11 of enactment of this Act, the Secretary shall publish a no-  
12 tice of proposed rulemaking to further define and imple-  
13 ment subsection (a) within subsection (c) or (d) of section  
14 771.117 of title 23, Code of Federal Regulations (as in  
15 effect on the date of enactment of the MAP-21).

16 **SEC. 1310. PROGRAMMATIC AGREEMENTS AND ADDI-**  
17 **TIONAL CATEGORICAL EXCLUSIONS.**

18         (a) IN GENERAL.—Not later than 60 days after the  
19 date of enactment of this Act, the Secretary shall—

20                 (1) survey the use by the Department of Trans-  
21 portation of categorical exclusions in transportation  
22 projects since 2005;

23                 (2) publish a review of the survey that includes  
24 a description of—

1 (A) the types of actions categorically ex-  
2 cluded; and

3 (B) any requests previously received by the  
4 Secretary for new categorical exclusions; and

5 (3) solicit requests from State departments of  
6 transportation, transit authorities, metropolitan  
7 planning organizations, or other government agen-  
8 cies for new categorical exclusions.

9 (b) NEW CATEGORICAL EXCLUSIONS.—Not later  
10 than 120 days after the date of enactment of this Act,  
11 the Secretary shall publish a notice of proposed rule-  
12 making to propose new categorical exclusions received by  
13 the Secretary under subsection (a), to the extent that the  
14 categorical exclusions meet the criteria for a categorical  
15 exclusion under section 1508.4 of title 40, Code of Federal  
16 Regulations and section 771.117(a) of title 23, Code of  
17 Federal Regulations (as those regulations are in effect on  
18 the date of the notice).

19 (c) ADDITIONAL ACTIONS.—The Secretary shall issue  
20 a proposed rulemaking to move the following types of ac-  
21 tions from subsection (d) of section 771.117 of title 23,  
22 Code of Federal Regulations (as in effect on the date of  
23 enactment of this Act), to subsection (e) of that section,  
24 to the extent that such movement complies with the cri-  
25 teria for a categorical exclusion under section 1508.4 of

1 title 40, Code of Federal Regulations (as in effect on the  
2 date of enactment of this Act):

3 (1) Modernization of a highway by resurfacing,  
4 restoration, rehabilitation, reconstruction, adding  
5 shoulders, or adding auxiliary lanes (including park-  
6 ing, weaving, turning, and climbing).

7 (2) Highway safety or traffic operations im-  
8 provement projects, including the installation of  
9 ramp metering control devices and lighting.

10 (3) Bridge rehabilitation, reconstruction, or re-  
11 placement or the construction of grade separation to  
12 replace existing at-grade railroad crossings.

13 (d) PROGRAMMATIC AGREEMENTS.—

14 (1) IN GENERAL.—The Secretary shall seek op-  
15 portunities to enter into programmatic agreements  
16 with the States that establish efficient administra-  
17 tive procedures for carrying out environmental and  
18 other required project reviews.

19 (2) INCLUSIONS.—Programmatic agreements  
20 authorized under paragraph (1) may include agree-  
21 ments that allow a State to determine on behalf of  
22 the Federal Highway Administration whether a  
23 project is categorically excluded from the prepara-  
24 tion of an environmental assessment or environ-  
25 mental impact statement under the National Envi-

1       ronmental Policy Act of 1969 (42 U.S.C. 4321 et  
2       seq.).

3           (3) DETERMINATIONS.—An agreement de-  
4       scribed in paragraph (2) may include determinations  
5       by the Secretary of the types of projects categori-  
6       cally excluded (consistent with section 1508.4 of title  
7       40, Code of Federal Regulations) in the State in ad-  
8       dition to the types listed in subsections (c) and (d)  
9       of section 771.117 of title 23, Code of Federal Reg-  
10      ulations (as in effect on the date of enactment of  
11      this Act).

12 **SEC. 1311. ACCELERATED DECISIONMAKING IN ENVIRON-**  
13                                   **MENTAL REVIEWS.**

14       (a) IN GENERAL.—When preparing a final environ-  
15      mental impact statement under the National Environ-  
16      mental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if  
17      the lead agency makes changes in response to comments  
18      that are minor and are confined to factual corrections or  
19      explanations of why the comments do not warrant further  
20      agency response, the lead agency may write on errata  
21      sheets attached to the statement instead of rewriting the  
22      draft statement, on the condition that the errata sheets—  
23           (1) cite the sources, authorities, or reasons that  
24      support the position of the agency; and

1           (2) if appropriate, indicate the circumstances  
2           that would trigger agency reappraisal or further re-  
3           sponse.

4           (b) INCORPORATION.—To the maximum extent prac-  
5           ticable, the lead agency shall expeditiously develop a single  
6           document that consists of a final environmental impact  
7           statement and a record of decision unless—

8           (1) the final environmental impact statement  
9           makes substantial changes to the proposed action  
10          that are relevant to environmental or safety con-  
11          cerns; or

12          (2) there are significant new circumstances or  
13          information relevant to environmental concerns and  
14          that bear on the proposed action or the impacts of  
15          the proposed action.

16 **SEC. 1312. MEMORANDA OF AGENCY AGREEMENTS FOR**  
17 **EARLY COORDINATION.**

18          (a) IN GENERAL.—It is the sense of Congress that—

19          (1) the Secretary and other Federal agencies  
20          with relevant jurisdiction in the environmental re-  
21          view process should cooperate with each other and  
22          other agencies on environmental review and project  
23          delivery activities at the earliest practicable time to  
24          avoid delays and duplication of effort later in the  
25          process, head off potential conflicts, and ensure that



1 planning and project development decisions reflect  
2 environmental values; and

3 (2) such cooperation should include the develop-  
4 ment of policies and the designation of staff that ad-  
5 vise planning agencies or project sponsors of studies  
6 or other information foreseeably required for later  
7 Federal action and early consultation with appro-  
8 priate State and local agencies and Indian tribes.

9 (b) TECHNICAL ASSISTANCE.—If requested at any  
10 time by a State or local planning agency, the Secretary  
11 and other Federal agencies with relevant jurisdiction in  
12 the environmental review process, shall, to the extent prac-  
13 ticable and appropriate, as determined by the agencies,  
14 provide technical assistance to the State or local planning  
15 agency on accomplishing the early coordination activities  
16 described in subsection (d).

17 (c) MEMORANDUM OF AGENCY AGREEMENT.—If re-  
18 quested at any time by a State or local planning agency,  
19 the lead agency, in consultation with other Federal agen-  
20 cies with relevant jurisdiction in the environmental review  
21 process, may establish memoranda of agreement with the  
22 project sponsor, State, and local governments and other  
23 appropriate entities to accomplish the early coordination  
24 activities described in subsection (d).

1 (d) EARLY COORDINATION ACTIVITIES.—Early co-  
2 ordination activities shall include, to the maximum extent  
3 practicable, the following:

4 (1) Technical assistance on identifying potential  
5 impacts and mitigation issues in an integrated fash-  
6 ion.

7 (2) The potential appropriateness of using plan-  
8 ning products and decisions in later environmental  
9 reviews.

10 (3) The identification and elimination from de-  
11 tailed study in the environmental review process of  
12 the issues that are not significant or that have been  
13 covered by prior environmental reviews.

14 (4) The identification of other environmental  
15 review and consultation requirements so that the  
16 lead and cooperating agencies may prepare, as ap-  
17 propriate, other required analyses and studies con-  
18 currently with planning activities.

19 (5) The identification by agencies with jurisdic-  
20 tion over any permits related to the project of any  
21 and all relevant information that will reasonably be  
22 required for the project.

23 (6) The reduction of duplication between re-  
24 quirements under the National Environmental Policy  
25 Act of 1969 (42 U.S.C. 4321 et seq.) and State and

1 local planning and environmental review require-  
2 ments, unless the agencies are specifically barred  
3 from doing so by applicable law.

4 (7) Timelines for the completion of agency ac-  
5 tions during the planning and environmental review  
6 processes.

7 (8) Other appropriate factors.

8 **SEC. 1313. ACCELERATED DECISIONMAKING.**

9 Section 139(h) of title 23, United States Code, is  
10 amended by striking paragraph (4) and inserting the fol-  
11 lowing:

12 “(4) INTERIM DECISION ON ACHIEVING ACCEL-  
13 ERATED DECISIONMAKING.—

14 “(A) IN GENERAL.—Not later than 30  
15 days after the close of the public comment pe-  
16 riod on a draft environmental impact statement,  
17 the Secretary may convene a meeting with the  
18 project sponsor, lead agency, resource agencies,  
19 and any relevant State agencies to ensure that  
20 all parties are on schedule to meet deadlines for  
21 decisions to be made regarding the project.

22 “(B) DEADLINES.—The deadlines referred  
23 to in subparagraph (A) shall be those estab-  
24 lished under subsection (g), or any other dead-  
25 lines established by the lead agency, in con-

1 sultation with the project sponsor and other rel-  
2 evant agencies.

3 “(C) FAILURE TO ASSURE.—If the rel-  
4 evant agencies cannot provide reasonable assur-  
5 ances that the deadlines described in subpara-  
6 graph (B) will be met, the Secretary may ini-  
7 tiate the issue resolution and referral process  
8 described under paragraph (5) and before the  
9 completion of the record of decision.

10 “(5) ACCELERATED ISSUE RESOLUTION AND  
11 REFERRAL.—

12 “(A) AGENCY ISSUE RESOLUTION MEET-  
13 ING.—

14 “(i) IN GENERAL.—A Federal agency  
15 of jurisdiction, project sponsor, or the Gov-  
16 ernor of a State in which a project is lo-  
17 cated may request an issue resolution  
18 meeting to be conducted by the lead agen-  
19 cy.

20 “(ii) ACTION BY LEAD AGENCY.—The  
21 lead agency shall convene an issue resolu-  
22 tion meeting under clause (i) with the rel-  
23 evant participating agencies and the  
24 project sponsor, including the Governor

1 only if the meeting was requested by the  
2 Governor, to resolve issues that could—

3 “(I) delay completion of the envi-  
4 ronmental review process; or

5 “(II) result in denial of any ap-  
6 provals required for the project under  
7 applicable laws.

8 “(iii) DATE.—A meeting requested  
9 under this subparagraph shall be held by  
10 not later than 21 days after the date of re-  
11 ceipt of the request for the meeting, unless  
12 the lead agency determines that there is  
13 good cause to extend the time for the  
14 meeting.

15 “(iv) NOTIFICATION.—On receipt of a  
16 request for a meeting under this subpara-  
17 graph, the lead agency shall notify all rel-  
18 evant participating agencies of the request,  
19 including the issue to be resolved, and the  
20 date for the meeting.

21 “(v) DISPUTES.—If a relevant partici-  
22 pating agency with jurisdiction over an ap-  
23 proval required for a project under applica-  
24 ble law determines that the relevant infor-  
25 mation necessary to resolve the issue has

1 not been obtained and could not have been  
2 obtained within a reasonable time, but the  
3 lead agency disagrees, the resolution of the  
4 dispute shall be forwarded to the heads of  
5 the relevant agencies for resolution.

6 “(vi) CONVENTION BY LEAD AGEN-  
7 CY.—A lead agency may convene an issue  
8 resolution meeting under this subsection at  
9 any time without the request of the Fed-  
10 eral agency of jurisdiction, project sponsor,  
11 or the Governor of a State.

12 “(B) ELEVATION OF ISSUE RESOLU-  
13 TION.—

14 “(i) IN GENERAL.—If issue resolution  
15 is not achieved by not later than 30 days  
16 after the date of a relevant meeting under  
17 subparagraph (A), the Secretary shall no-  
18 tify the lead agency, the heads of the rel-  
19 evant participating agencies, and the  
20 project sponsor (including the Governor  
21 only if the initial issue resolution meeting  
22 request came from the Governor) that an  
23 issue resolution meeting will be convened.

24 “(ii) REQUIREMENTS.—The Secretary  
25 shall identify the issues to be addressed at

1 the meeting and convene the meeting not  
2 later than 30 days after the date of  
3 issuance of the notice.

4 “(C) REFERRAL OF ISSUE RESOLUTION.—

5 “(i) REFERRAL TO COUNCIL ON ENVI-  
6 RONMENTAL QUALITY.—

7 “(I) IN GENERAL.—If resolution  
8 is not achieved by not later than 30  
9 days after the date of an issue resolu-  
10 tion meeting under subparagraph (B),  
11 the Secretary shall refer the matter to  
12 the Council on Environmental Qual-  
13 ity.

14 “(II) MEETING.—Not later than  
15 30 days after the date of receipt of a  
16 referral from the Secretary under sub-  
17 clause (I), the Council on Environ-  
18 mental Quality shall hold an issue res-  
19 olution meeting with the lead agency,  
20 the heads of relevant participating  
21 agencies, and the project sponsor (in-  
22 cluding the Governor only if an initial  
23 request for an issue resolution meet-  
24 ing came from the Governor).

1           “(ii) REFERRAL TO THE PRESI-  
2           DENT.—If a resolution is not achieved by  
3           not later than 30 days after the date of the  
4           meeting convened by the Council on Envi-  
5           ronmental Quality under clause (i)(II), the  
6           Secretary shall refer the matter directly to  
7           the President.

8           “(6) FINANCIAL TRANSFER PROVISIONS.—

9           “(A) IN GENERAL.—A Federal agency of  
10          jurisdiction over an approval required for a  
11          project under applicable laws shall complete any  
12          required approval on an expeditious basis using  
13          the shortest existing applicable process.

14          “(B) FAILURE TO DECIDE.—

15          “(i) IN GENERAL.—If an agency de-  
16          scribed in subparagraph (A) fails to render  
17          a decision under any Federal law relating  
18          to a project that requires the preparation  
19          of an environmental impact statement or  
20          environmental assessment, including the  
21          issuance or denial of a permit, license, or  
22          other approval by the date described in  
23          clause (ii), the agency shall transfer from  
24          the applicable office of the head of the  
25          agency, or equivalent office to which the



1 authority for rendering the decision has  
2 been delegated by law, to the agency or di-  
3 vision charged with rendering a decision  
4 regarding the application, by not later than  
5 1 day after the applicable date under  
6 clause (ii), and once each week thereafter  
7 until a final decision is rendered, subject to  
8 subparagraph (C)—

9 “(I) \$20,000 for any project for  
10 which an annual financial plan under  
11 section 106(i) is required; or

12 “(II) \$10,000 for any other  
13 project requiring preparation of an  
14 environmental assessment or environ-  
15 mental impact statement.

16 “(ii) DESCRIPTION OF DATE.—The  
17 date referred to in clause (i) is the later  
18 of—

19 “(I) the date that is 180 days  
20 after the date on which an application  
21 for the permit, license, or approval is  
22 complete; and

23 “(II) the date that is 180 days  
24 after the date on which the Federal  
25 lead agency issues a decision on the

1 project under the National Environ-  
2 mental Policy Act of 1969 (42 U.S.C.  
3 4321 et seq.).

4 “(C) LIMITATIONS.—

5 “(i) IN GENERAL.—No transfer of  
6 funds under subparagraph (B) relating to  
7 an individual project shall exceed, in any  
8 fiscal year, an amount equal to 1 percent  
9 of the funds made available for the appli-  
10 cable agency office.

11 “(ii) FAILURE TO DECIDE.—The total  
12 amount transferred in a fiscal year as a re-  
13 sult of a failure by an agency to make a  
14 decision by an applicable deadline shall not  
15 exceed an amount equal to 5 percent of the  
16 funds made available for the applicable  
17 agency office for that fiscal year.

18 “(D) TREATMENT.—The transferred funds  
19 shall only be available to the agency or division  
20 charged with rendering the decision as addi-  
21 tional resources, pursuant to subparagraph (F).

22 “(E) NO FAULT OF AGENCY.—A transfer  
23 of funds under this paragraph shall not be  
24 made if the agency responsible for rendering  
25 the decision certifies that—

1           “(i) the agency has not received nec-  
2           essary information or approvals from an-  
3           other entity, such as the project sponsor,  
4           in a manner that affects the ability of the  
5           agency to meet any requirements under  
6           State, local, or Federal law; or

7           “(ii) significant new information or  
8           circumstances, including a major modifica-  
9           tion to an aspect of the project, requires  
10          additional analysis for the agency to make  
11          a decision on the project application.

12          “(F) TREATMENT OF FUNDS.—

13           “(i) IN GENERAL.—Funds transferred  
14           under this paragraph shall supplement re-  
15           sources available to the agency or division  
16           charged with making a decision for the  
17           purpose of expediting permit reviews.

18           “(ii) AVAILABILITY.—Funds trans-  
19           ferred under this paragraph shall be avail-  
20           able for use or obligation for the same pe-  
21           riod that the funds were originally author-  
22           ized or appropriated, plus 1 additional fis-  
23           cal year.

24           “(iii) LIMITATION.—The Federal  
25           agency with jurisdiction for the decision

1           that has transferred the funds pursuant to  
2           this paragraph shall not reprogram funds  
3           to the office of the head of the agency, or  
4           equivalent office, to reimburse that office  
5           for the loss of the funds.

6           “(G) AUDITS.—In any fiscal year in which  
7           any Federal agency transfers funds pursuant to  
8           this paragraph, the Inspector General of that  
9           agency shall—

10                   “(i) conduct an audit to assess com-  
11                   pliance with the requirements of this para-  
12                   graph; and

13                   “(ii) not later than 120 days after the  
14                   end of the fiscal year during which the  
15                   transfer occurred, submit to the Committee  
16                   on Environment and Public Works of the  
17                   Senate and any other appropriate congress-  
18                   sional committees a report describing the  
19                   reasons why the transfers were levied, in-  
20                   cluding allocations of resources.

21           “(H) EFFECT OF PARAGRAPH.—Nothing  
22           in this paragraph affects or limits the applica-  
23           tion of, or obligation to comply with, any Fed-  
24           eral, State, local, or tribal law.

1           “(I) AUTHORITY FOR INTRA-AGENCY  
2 TRANSFER OF FUNDS.—The requirement pro-  
3 vided under this paragraph for a Federal agen-  
4 cy to transfer or reallocate funds of the Federal  
5 agency in accordance with subparagraph  
6 (B)(i)—

7           “(i) shall be treated by the Federal  
8 agency as a requirement and authority  
9 consistent with any applicable original law  
10 establishing and authorizing the agency;  
11 but

12           “(ii) does not provide to the Federal  
13 agency the authority to require or deter-  
14 mine the intra-agency transfer or realloca-  
15 tion of funds that are provided to or are  
16 within any other Federal agency.

17           “(7) EXPEDIENT DECISIONS AND REVIEWS.—  
18 To ensure that Federal environmental decisions and  
19 reviews are expeditiously made—

20           “(A) adequate resources made available  
21 under this title shall be devoted to ensuring  
22 that applicable environmental reviews under the  
23 National Environmental Policy Act of 1969 (42  
24 U.S.C. 4321 et seq.) are completed on an expe-  
25 ditious basis and that the shortest existing ap-

1 plicable process under that Act is implemented;  
2 and

3 “(B) the President shall submit to the  
4 Committee on Transportation and Infrastruc-  
5 ture of the House of Representatives and the  
6 Committee on Environment and Public Works  
7 of the Senate, not less frequently than once  
8 every 120 days after the date of enactment of  
9 the MAP-21, a report on the status and  
10 progress of the following projects and activities  
11 funded under this title with respect to compli-  
12 ance with applicable requirements under the  
13 National Environmental Policy Act of 1969 (42  
14 U.S.C. 4321 et seq.):

15 “(i) Projects and activities required to  
16 prepare an annual financial plan under  
17 section 106(i).

18 “(ii) A sample of not less than 5 per-  
19 cent of the projects requiring preparation  
20 of an environmental impact statement or  
21 environmental assessment in each State.”.

22 **SEC. 1314. ENVIRONMENTAL PROCEDURES INITIATIVE.**

23 (a) ESTABLISHMENT.—For grant programs under  
24 which funds are distributed by formula by the Department  
25 of Transportation, the Secretary shall establish an initia-

1 tive to review and develop consistent procedures for envi-  
2 ronmental permitting and procurement requirements.

3 (b) REPORT.—The Secretary shall publish the results  
4 of the initiative described in subsection (a) in an electroni-  
5 cally accessible format.

6 **SEC. 1315. ALTERNATIVE RELOCATION PAYMENT DEM-**  
7 **ONSTRATION PROGRAM.**

8 (a) PAYMENT DEMONSTRATION PROGRAM.—

9 (1) IN GENERAL.—Except as otherwise pro-  
10 vided in this section, for the purpose of identifying  
11 improvements in the timeliness of providing reloca-  
12 tion assistance to persons displaced by Federal or  
13 federally assisted programs and projects, the Sec-  
14 retary may allow not more than 5 States to partici-  
15 pate in an alternative relocation payment demonstra-  
16 tion program under which payments to displaced  
17 persons eligible for relocation assistance pursuant to  
18 the Uniform Relocation Assistance and Real Prop-  
19 erty Acquisition Policies Act of 1970 (42 U.S.C.  
20 4601 et seq.) (including implementing regulations),  
21 are calculated based on reasonable estimates and  
22 paid in advance of the physical displacement of the  
23 displaced person.

24 (2) TIMING OF PAYMENTS.—Relocation assist-  
25 ance payments for projects carried out under an ap-

1 proved State demonstration program may be pro-  
2 vided to the displaced person at the same time as  
3 payments of just compensation for real property ac-  
4 quired for the program or project of the State.

5 (3) COMBINING OF PAYMENTS.—Payments for  
6 relocation and just compensation may be combined  
7 into a single unallocated amount.

8 (b) CRITERIA.—

9 (1) IN GENERAL.—After public notice and an  
10 opportunity to comment, the Secretary shall adopt  
11 criteria for carrying out the alternative relocation  
12 payment demonstration program.

13 (2) CONDITIONS.—

14 (A) IN GENERAL.—Conditions for State  
15 participation in the demonstration program  
16 shall include the conditions described in sub-  
17 paragraphs (B) through (E).

18 (B) MEMORANDUM OF AGREEMENT.—A  
19 State wishing to participate in the demonstra-  
20 tion program shall be required to enter into a  
21 memorandum of agreement with the Secretary  
22 that includes provisions relating to—

23 (i) the selection of projects or pro-  
24 grams within the State to which the alter-



1 native relocation payment process will be  
2 applied;

3 (ii) program and project-level moni-  
4 toring;

5 (iii) performance measurement;

6 (iv) reporting; and

7 (v) the circumstances under which the  
8 Secretary may terminate the demonstra-  
9 tion program of the State before the end of  
10 the program term.

11 (C) TERM OF DEMONSTRATION PRO-  
12 GRAM.—Except as provided in subparagraph  
13 (B)(v), the demonstration program of the State  
14 may continue for up to 3 years after the date  
15 on which the Secretary executes the memo-  
16 randum of agreement.

17 (D) DISPLACED PERSONS.—

18 (i) IN GENERAL.—Displaced persons  
19 affected by a project included in the dem-  
20 onstration program of the State shall be  
21 informed in writing in a format that is  
22 clear and easily understandable that the  
23 relocation payments that the displaced per-  
24 sons receive under the demonstration pro-  
25 gram may be higher or lower than the

1 amount that the displaced persons would  
2 receive under the standard relocation as-  
3 sistance process.

4 (ii) ALTERNATIVE PROCESS.—Dis-  
5 placed persons shall be informed—

6 (I) of the right of the displaced  
7 persons not to participate in the dem-  
8 onstration program; and

9 (II) that the alternative reloca-  
10 tion payment process can be used only  
11 if the displaced person agrees in writ-  
12 ing.

13 (iii) ASSISTANCE.—The displacing  
14 agency shall provide any displaced person  
15 who elects not to participate in the dem-  
16 onstration program with relocation assist-  
17 ance in accordance with the Uniform Relo-  
18 cation Assistance and Real Property Ac-  
19 quisition Policies Act of 1970 (42 U.S.C.  
20 4601 et seq.) (including implementing reg-  
21 ulations).

22 (E) OTHER DISPLACEMENTS.—

23 (i) IN GENERAL.—If other Federal  
24 agencies plan displacements in or adjacent  
25 to a demonstration program project area

1 within the same time period as the project  
2 acquisition and relocation actions of the  
3 demonstration program, the Secretary  
4 shall adopt measures to protect against in-  
5 consistent treatment of displaced persons.

6 (ii) INCLUSION.—Measures described  
7 in clause (i) may include a determination  
8 that the demonstration program authority  
9 may not be used on a particular project.

10 (c) REPORT.—

11 (1) IN GENERAL.—The Secretary shall submit  
12 to Congress—

13 (A) at least every 18 months after the date  
14 of enactment of this Act, a report on the  
15 progress and results of the demonstration pro-  
16 gram; and

17 (B) not later than 1 year after all State  
18 demonstration programs have ended, a final re-  
19 port.

20 (2) REQUIREMENTS.—The final report shall in-  
21 clude an evaluation by the Secretary of the merits  
22 of the alternative relocation payment demonstration  
23 program, including the effects of the demonstration  
24 program on—

1 (A) displaced persons and the protections  
2 afforded to displaced persons by the Uniform  
3 Relocation Assistance and Real Property Acqui-  
4 sition Policies Act of 1970 (42 U.S.C. 4601 et  
5 seq.);

6 (B) the efficiency of the delivery of Fed-  
7 eral-aid highway projects and overall effects on  
8 the Federal-aid highway program; and

9 (C) the achievement of the purposes of the  
10 Uniform Relocation Assistance and Real Prop-  
11 erty Acquisition Policies Act of 1970 (42  
12 U.S.C. 4601 et seq.).

13 (d) LIMITATION.—The authority of this section may  
14 be used only on projects funded under title 23, United  
15 States Code, in cases in which the funds are administered  
16 by the Federal Highway Administration.

17 (e) AUTHORITY.—The authority of the Secretary to  
18 approve an alternate relocation payment demonstration  
19 program for a State terminates on the date that is 3 years  
20 after the date of enactment of this Act

21 **SEC. 1316. REVIEW OF FEDERAL PROJECT AND PROGRAM**  
22 **DELIVERY.**

23 (a) COMPLETION TIME ASSESSMENTS AND RE-  
24 PORTS.—

1           (1) IN GENERAL.—For projects funded under  
2 title 23, United States Code, the Secretary shall  
3 compare—

4                   (A)(i) the completion times of categorical  
5 exclusions, environmental assessments, and en-  
6 vironmental impact statements initiated after  
7 calendar year 2005; to

8                   (ii) the completion times of categorical ex-  
9 clusions, environmental assessments, and envi-  
10 ronmental impact statements initiated during a  
11 period prior to calendar year 2005; and

12                   (B)(i) the completion times of categorical  
13 exclusions, environmental assessments, and en-  
14 vironmental impact statements initiated during  
15 the period beginning on January 1, 2005, and  
16 ending on the date of enactment of this Act; to

17                   (ii) the completion times of categorical ex-  
18 clusions, environmental assessments, and envi-  
19 ronmental impact statements initiated after the  
20 date of enactment of this Act.

21           (2) REPORT.—The Secretary shall submit to  
22 the Committee on Transportation and Infrastructure  
23 of the House of Representatives and the Committee  
24 on Environment and Public Works of the Senate a  
25 report—

1 (A) not later than 1 year after the date of  
2 enactment of this Act that—

3 (i) describes the results of the review  
4 conducted under paragraph (1)(A); and

5 (ii) identifies any change in the timing  
6 for completions, including the reasons for  
7 any such change and the reasons for  
8 delays in excess of 5 years; and

9 (B) not later than 5 years after the date  
10 of enactment of this Act that—

11 (i) describes the results of the review  
12 conducted under paragraph (1)(B); and

13 (ii) identifies any change in the timing  
14 for completions, including the reasons for  
15 any such change and the reasons for  
16 delays in excess of 5 years.

17 (b) ADDITIONAL REPORT.—Not later than 2 years  
18 after the date of enactment of this Act, the Secretary shall  
19 submit to the Committee on Transportation and Infra-  
20 structure of the House of Representatives and the Com-  
21 mittee on Environment and Public Works of the Senate  
22 a report on the types and justification for the additional  
23 categorical exclusions granted under the authority pro-  
24 vided under sections 1309 and 1310.

1 (c) GAO REPORT.—The Comptroller General of the  
2 United States shall—

3 (1) assess the reforms carried out under sec-  
4 tions 1301 through 1315 (including the amendments  
5 made by those sections); and

6 (2) not later than 5 years after the date of en-  
7 actment of this Act, submit to the Committee on  
8 Transportation and Infrastructure of the House of  
9 Representatives and the Committee on Environment  
10 and Public Works of the Senate a report that de-  
11 scribes the results of the assessment.

12 (d) INSPECTOR GENERAL REPORT.—The Inspector  
13 General of the Department of Transportation shall—

14 (1) assess the reforms carried out under sec-  
15 tions 1301 through 1315 (including the amendments  
16 made by those sections); and

17 (2) submit to the Committee on Transportation  
18 and Infrastructure of the House of Representatives  
19 and the Committee on Environment and Public  
20 Works of the Senate—

21 (A) not later than 2 years after the date  
22 of enactment of this Act, an initial report of the  
23 findings of the Inspector General; and

1 (B) not later than 4 years after the date  
2 of enactment of this Act, a final report of the  
3 findings.

## 4 **Subtitle D—Highway Safety**

### 5 **SEC. 1401. JASON'S LAW.**

6 (a) **IN GENERAL.**—It is the sense of Congress that  
7 it is a national priority to address projects under this sec-  
8 tion for the shortage of long-term parking for commercial  
9 motor vehicles on the National Highway System to im-  
10 prove the safety of motorized and nonmotorized users and  
11 for commercial motor vehicle operators.

12 (b) **ELIGIBLE PROJECTS.**—Eligible projects under  
13 this section are those that—

14 (1) serve the National Highway System; and

15 (2) may include the following:

16 (A) Constructing safety rest areas (as de-  
17 fined in section 120(c) of title 23, United  
18 States Code) that include parking for commer-  
19 cial motor vehicles.

20 (B) Constructing commercial motor vehicle  
21 parking facilities adjacent to commercial truck  
22 stops and travel plazas.

23 (C) Opening existing facilities to commer-  
24 cial motor vehicle parking, including inspection  
25 and weigh stations and park-and-ride facilities.



1 (D) Promoting the availability of publicly  
2 or privately provided commercial motor vehicle  
3 parking on the National Highway System using  
4 intelligent transportation systems and other  
5 means.

6 (E) Constructing turnouts along the Na-  
7 tional Highway System for commercial motor  
8 vehicles.

9 (F) Making capital improvements to public  
10 commercial motor vehicle parking facilities cur-  
11 rently closed on a seasonal basis to allow the fa-  
12 cilities to remain open year-round.

13 (G) Improving the geometric design of  
14 interchanges on the National Highway System  
15 to improve access to commercial motor vehicle  
16 parking facilities.

17 (c) SURVEY AND COMPARATIVE ASSESSMENT.—

18 (1) IN GENERAL.—The Secretary, in consulta-  
19 tion with relevant State motor carrier safety per-  
20 sonnel, shall conduct a survey regarding the avail-  
21 ability of parking facilities within each State—

22 (A) to evaluate the capability of the State  
23 to provide adequate parking and rest facilities  
24 for motor carriers engaged in interstate motor  
25 carrier service;

1 (B) to assess the volume of motor carrier  
2 traffic through the State; and

3 (C) to develop a system of metrics to  
4 measure the adequacy of parking facilities in  
5 the State.

6 (2) RESULTS.—The results of the survey under  
7 paragraph (1) shall be made available to the public  
8 on the website of the Department of Transportation.

9 (3) PERIODIC UPDATES.—The Secretary shall  
10 periodically update the survey under this subsection.

11 (d) TREATMENT OF PROJECTS.—Notwithstanding  
12 any other provision of law, projects funded through the  
13 authority provided under this section shall be treated as  
14 projects on a Federal-aid system under chapter 1 of title  
15 23, United States Code.

16 **SEC. 1402. OPEN CONTAINER REQUIREMENTS.**

17 Section 154(e) of title 23, United States Code, is  
18 amended—

19 (1) by striking paragraph (2) and inserting the  
20 following:

21 “(2) FISCAL YEAR 2012 AND THEREAFTER.—

22 “(A) RESERVATION OF FUNDS.—On Octo-  
23 ber 1, 2011, and each October 1 thereafter, if  
24 a State has not enacted or is not enforcing an  
25 open container law described in subsection (b),

1 the Secretary shall reserve an amount equal to  
2 2.5 percent of the funds to be apportioned to  
3 the State on that date under each of para-  
4 graphs (1) and (2) of section 104(b) until the  
5 State certifies to the Secretary the means by  
6 which the State will use those reserved funds in  
7 accordance with subparagraphs (A) and (B) of  
8 paragraph (1) and paragraph (3).

9 “(B) TRANSFER OF FUNDS.—As soon as  
10 practicable after the date of receipt of a certifi-  
11 cation from a State under subparagraph (A),  
12 the Secretary shall—

13 “(i) transfer the reserved funds identi-  
14 fied by the State for use as described in  
15 subparagraphs (A) and (B) of paragraph  
16 (1) to the apportionment of the State  
17 under section 402; and

18 “(ii) release the reserved funds identi-  
19 fied by the State as described in paragraph  
20 (3).”;

21 (2) by striking paragraph (3) and inserting the  
22 following:

23 “(3) USE FOR HIGHWAY SAFETY IMPROVEMENT  
24 PROGRAM.—

1           “(A) IN GENERAL.—A State may elect to  
2           use all or a portion of the funds transferred  
3           under paragraph (2) for activities eligible under  
4           section 148.

5           “(B) STATE DEPARTMENTS OF TRANSPOR-  
6           TATION.—If the State makes an election under  
7           subparagraph (A), the funds shall be trans-  
8           ferred to the department of transportation of  
9           the State, which shall be responsible for the ad-  
10          ministration of the funds.”; and

11          (3) by striking paragraph (5) and inserting the  
12          following:

13          “(5) DERIVATION OF AMOUNT TO BE TRANS-  
14          FERRED.—The amount to be transferred under  
15          paragraph (2) may be derived from the following:

16                 “(A) The apportionment of the State  
17                 under section 104(b)(1).

18                 “(B) The apportionment of the State  
19                 under section 104(b)(2).”.

20   **SEC. 1403. MINIMUM PENALTIES FOR REPEAT OFFENDERS**  
21                         **FOR DRIVING WHILE INTOXICATED OR DRIV-**  
22                         **ING UNDER THE INFLUENCE.**

23          (a) DEFINITIONS.—Section 164(a) of title 23, United  
24          States Code, is amended—

25                 (1) by striking paragraph (3);

1           (2) by redesignating paragraphs (4) and (5) as  
2 paragraphs (3) and (4), respectively; and

3           (3) in paragraph (4) (as so redesignated) by  
4 striking subparagraph (A) and inserting the fol-  
5 lowing:

6           “(A) receive—

7                 “(i) a suspension of all driving privi-  
8 leges for not less than 1 year; or

9                 “(ii) a suspension of unlimited driving  
10 privileges for 1 year, allowing for the rein-  
11 statement of limited driving privileges sub-  
12 ject to restrictions and limited exemptions  
13 as established by State law, if an ignition  
14 interlock device is installed for not less  
15 than 1 year on each of the motor vehicles  
16 owned or operated, or both, by the indi-  
17 vidual;”.

18           (b) TRANSFER OF FUNDS.—Section 164(b) of title  
19 23, United States Code, is amended—

20           (1) by striking paragraph (2) and inserting the  
21 following:

22                 “(2) FISCAL YEAR 2012 AND THEREAFTER.—

23                 “(A) RESERVATION OF FUNDS.—On Octo-  
24 ber 1, 2011, and each October 1 thereafter, if  
25 a State has not enacted or is not enforcing a

1 repeat intoxicated driver law, the Secretary  
2 shall reserve an amount equal to 6 percent of  
3 the funds to be apportioned to the State on  
4 that date under each of paragraphs (1) and (2)  
5 of section 104(b) until the State certifies to the  
6 Secretary the means by which the States will  
7 use those reserved funds among the uses au-  
8 thorized under subparagraphs (A) and (B) of  
9 paragraph (1), and paragraph (3).

10 “(B) TRANSFER OF FUNDS.—As soon as  
11 practicable after the date of receipt of a certifi-  
12 cation from a State under subparagraph (A),  
13 the Secretary shall—

14 “(i) transfer the reserved funds identi-  
15 fied by the State for use as described in  
16 subparagraphs (A) and (B) of paragraph  
17 (1) to the apportionment of the State  
18 under section 402; and

19 “(ii) release the reserved funds identi-  
20 fied by the State as described in paragraph  
21 (3).”;

22 (2) by striking paragraph (3) and inserting the  
23 following:

24 “(3) USE FOR HIGHWAY SAFETY IMPROVEMENT  
25 PROGRAM.—

1           “(A) IN GENERAL.—A State may elect to  
2           use all or a portion of the funds transferred  
3           under paragraph (2) for activities eligible under  
4           section 148.

5           “(B) STATE DEPARTMENTS OF TRANSPOR-  
6           TATION.—If the State makes an election under  
7           subparagraph (A), the funds shall be trans-  
8           ferred to the department of transportation of  
9           the State, which shall be responsible for the ad-  
10          ministration of the funds.”; and

11          (3) by striking paragraph (5) and inserting the  
12          following:

13           “(5) DERIVATION OF AMOUNT TO BE TRANS-  
14          FERRED.—The amount to be transferred under  
15          paragraph (2) may be derived from the following:

16           “(A) The apportionment of the State  
17          under section 104(b)(1).

18           “(B) The apportionment of the State  
19          under section 104(b)(2).”.

20 **SEC. 1404. ADJUSTMENTS TO PENALTY PROVISIONS.**

21          (a) VEHICLE WEIGHT LIMITATIONS.—Section  
22          127(a)(1) of title 23, United States Code, is amended by  
23          striking “No funds shall be apportioned in any fiscal year  
24          under section 104(b)(1) of this title to any State which”  
25          and inserting “The Secretary shall withhold 50 percent

1 of the apportionment of a State under section 104(b)(1)  
2 in any fiscal year in which the State”.

3 (b) CONTROL OF JUNKYARDS.—Section 136 of title  
4 23, United States Code, is amended—

5 (1) in subsection (b), in the first sentence—

6 (A) by striking “10 per centum” and in-  
7 serting “7 percent”; and

8 (B) by striking “section 104 of this title”  
9 and inserting “paragraphs (1) through (5) of  
10 section 104(b)”; and

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

12 “(n) For purposes of this section, the terms ‘primary  
13 system’ and ‘Federal-aid primary system’ mean any high-  
14 way that is on the National Highway System, which in-  
15 cludes the Interstate Highway System.”.

16 (c) ENFORCEMENT OF VEHICLE SIZE AND WEIGHT  
17 LAWS.—Section 141(b)(2) of title 23, United States Code,  
18 is amended—

19 (1) by striking “10 per centum” and inserting  
20 “7 percent”; and

21 (2) by striking “section 104 of this title” and  
22 inserting “paragraphs (1) through (5) of section  
23 104(b)”.



1 (d) PROOF OF PAYMENT OF THE HEAVY VEHICLE  
2 USE TAX.—Section 141(c) of title 23, United States  
3 Code, is amended—

4 (1) by striking “section 104(b)(4)” each place  
5 it appears and inserting “section 104(b)(1)”; and

6 (2) in the first sentence by striking “25 per  
7 centum” and inserting “ 8 percent”.

8 (e) USE OF SAFETY BELTS.—Section 153(h) of title  
9 23, United States Code, is amended—

10 (1) by striking paragraph (1);

11 (2) by redesignating paragraph (2) as para-  
12 graph (1);

13 (3) in paragraph (1) (as so redesignated)—

14 (A) by striking the paragraph heading and  
15 inserting “PRIOR TO FISCAL YEAR 2012”; and

16 (B) by inserting “and before October 1,  
17 2011,” after “September 30, 1994,”; and

18 (4) by inserting after paragraph (1) (as so re-  
19 designated) the following:

20 “(2) FISCAL YEAR 2012 AND THEREAFTER.—If,  
21 at any time in a fiscal year beginning after Sep-  
22 tember 30, 2011, a State does not have in effect a  
23 law described in subsection (a)(2), the Secretary  
24 shall transfer an amount equal to 2 percent of the  
25 funds apportioned to the State for the succeeding

1 fiscal year under each of paragraphs (1) through (3)  
2 of section 104(b) to the apportionment of the State  
3 under section 402.”.

4 (f) NATIONAL MINIMUM DRINKING AGE.—Section  
5 158(a)(1) of title 23, United States Code, is amended—

6 (1) by striking “The Secretary” and inserting  
7 the following:

8 “(A) FISCAL YEARS BEFORE 2012.—The  
9 Secretary”; and

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

11 “(B) FISCAL YEAR 2012 AND THERE-  
12 AFTER.—For fiscal year 2012 and each fiscal  
13 year thereafter, the amount to be withheld  
14 under this section shall be an amount equal to  
15 8 percent of the amount apportioned to the  
16 noncompliant State, as described in subpara-  
17 graph (A), under paragraphs (1) and (2) of sec-  
18 tion 104(b).”.

19 (g) DRUG OFFENDERS.—Section 159 of title 23,  
20 United States Code, is amended—

21 (1) in subsection (a)—

22 (A) by striking paragraph (1);

23 (B) by redesignating paragraph (2) as  
24 paragraph (1);

1 (C) in paragraph (1) (as so redesignated)  
2 by striking “(including any amounts withheld  
3 under paragraph (1))”; and

4 (D) by inserting after paragraph (1) (as so  
5 redesignated) the following:

6 “(2) FISCAL YEAR 2012 AND THEREAFTER.—

7 The Secretary shall withhold an amount equal to 8  
8 percent of the amount required to be apportioned to  
9 any State under each of paragraphs (1) and (2) of  
10 section 104(b) on the first day of each fiscal year  
11 beginning after September 30, 2011, if the State  
12 fails to meet the requirements of paragraph (3) on  
13 the first day of the fiscal year.”; and

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

16 “(b) EFFECT OF NONCOMPLIANCE.—No funds with-  
17 held under this section from apportionments to any State  
18 shall be available for apportionment to that State.”.

19 (h) ZERO TOLERANCE BLOOD ALCOHOL CON-  
20 CENTRATION FOR MINORS.—Section 161(a) of title 23,  
21 United States Code, is amended—

22 (1) by striking paragraph (1);

23 (2) by redesignating paragraph (2) as para-  
24 graph (1);

25 (3) in paragraph (1) (as so redesignated)—

1 (A) by striking the paragraph heading and  
2 inserting “PRIOR TO FISCAL YEAR 2012”; and

3 (B) by inserting “through fiscal year  
4 2011” after “each fiscal year thereafter”; and

5 (4) by inserting after paragraph (1) (as so re-  
6 designated) the following:

7 “(2) FISCAL YEAR 2012 AND THEREAFTER.—  
8 The Secretary shall withhold an amount equal to 8  
9 percent of the amount required to be apportioned to  
10 any State under each of paragraphs (1) and (2) of  
11 section 104(b) on October 1, 2011, and on October  
12 1 of each fiscal year thereafter, if the State does not  
13 meet the requirement of paragraph (3) on that  
14 date.”.

15 (i) OPERATION OF MOTOR VEHICLES BY INTOXI-  
16 CATED PERSONS.—Section 163(e) of title 23, United  
17 States Code, is amended by striking paragraphs (1) and  
18 (2) and inserting the following:

19 “(1) FISCAL YEARS 2007 THROUGH 2011.—On  
20 October 1, 2006, and October 1 of each fiscal year  
21 thereafter through fiscal year 2011, if a State has  
22 not enacted or is not enforcing a law described in  
23 subsection (a), the Secretary shall withhold an  
24 amount equal to 8 percent of the amounts to be ap-

1       portioned to the State on that date under each of  
2       paragraphs (1), (3), and (4) of section 104(b).

3               “(2) FISCAL YEAR 2012 AND THEREAFTER.—On  
4       October 1, 2011, and October 1 of each fiscal year  
5       thereafter, if a State has not enacted or is not en-  
6       forcing a law described in subsection (a), the Sec-  
7       retary shall withhold an amount equal to 6 percent  
8       of the amounts to be apportioned to the State on  
9       that date under each of paragraphs (1) and (2) of  
10       section 104(b).”.

11       (j) COMMERCIAL DRIVER’S LICENSE.—Section  
12       31314 of title 49, United States Code, is amended—

13               (1) by redesignating subsection (c) as sub-  
14       section (d); and

15               (2) by inserting after subsection (b) the fol-  
16       lowing:

17       “(c) PENALTIES IMPOSED IN FISCAL YEAR 2012  
18       AND THEREAFTER.—Effective beginning on October 1,  
19       2011—

20               “(1) the penalty for the first instance of non-  
21       compliance by a State under this section shall be not  
22       more than an amount equal to 4 percent of funds  
23       required to be apportioned to the noncompliant  
24       State under paragraphs (1) and (2) of section  
25       104(b) of title 23; and

1           “(2) the penalty for subsequent instances of  
2 noncompliance shall be not more than an amount  
3 equal to 8 percent of funds required to be appor-  
4 tioned to the noncompliant State under paragraphs  
5 (1) and (2) of section 104(b) of title 23.”.

6 **SEC. 1405. HIGHWAY WORKER SAFETY.**

7           (a) **POSITIVE PROTECTIVE DEVICES.**—Not later than  
8 60 days after the date of enactment of this Act, the Sec-  
9 retary shall modify section 630.1108(a) of title 23, Code  
10 of Federal Regulations (as in effect on the date of enact-  
11 ment of this Act), to ensure that—

12           (1) at a minimum, positive protective measures  
13 are used to separate workers on highway construc-  
14 tion projects from motorized traffic in all work zones  
15 conducted under traffic in areas that offer workers  
16 no means of escape (such as tunnels and bridges),  
17 unless an engineering study determines otherwise;

18           (2) temporary longitudinal traffic barriers are  
19 used to protect workers on highway construction  
20 projects in long-duration stationary work zones when  
21 the project design speed is anticipated to be high  
22 and the nature of the work requires workers to be  
23 within 1 lane-width from the edge of a live travel  
24 lane, unless—

1 (A) an analysis by the project sponsor de-  
2 termines otherwise; or

3 (B) the project is outside of an urbanized  
4 area and the annual average daily traffic load  
5 of the applicable road is less than 100 vehicles  
6 per hour; and

7 (3) when positive protective devices are nec-  
8 essary for highway construction projects, those de-  
9 vices are paid for on a unit-pay basis, unless doing  
10 so would create a conflict with innovative con-  
11 tracting approaches, such as design-build or some  
12 performance-based contracts under which the con-  
13 tractor is paid to assume a certain risk allocation  
14 and payment is generally made on a lump-sum basis.

15 (b) TURNOUT GEAR.—Notwithstanding sections  
16 6D.03 and 6E.02 of the Manual on Uniform Traffic Con-  
17 trol Devices dated 2009 (as in effect on the date of enact-  
18 ment of this Act), any firefighter engaged in any type of  
19 operation while working within the right-of-way of a Fed-  
20 eral-aid highway may optionally wear for compliance  
21 retroreflective turnout gear that is specified and regulated  
22 by other organizations, such as the gear specified in Na-  
23 tional Fire Protection Association standards 1971 through  
24 2007 (as in effect on that date of enactment), in lieu of

1 apparel meeting the requirements under ANSI/ISEA 107–  
 2 2004 or ANSI/ISEA 207–2006 (as in effect on that date).

### 3 **Subtitle E—Miscellaneous**

#### 4 **SEC. 1501. PROGRAM EFFICIENCIES.**

5 The first sentence of section 102(b) of title 23,  
 6 United States Code, is amended by striking “made avail-  
 7 able for such engineering” and inserting “reimbursed for  
 8 the preliminary engineering”.

#### 9 **SEC. 1502. PROJECT APPROVAL AND OVERSIGHT.**

10 Section 106 of title 23, United States Code, is  
 11 amended—

12 (1) in subsection (a)(2) by inserting “recipient”  
 13 before “formalizing”;

14 (2) in subsection (c)—

15 (A) in paragraph (1)—

16 (i) in the heading, by striking “NON-  
 17 INTERSTATE”; and

18 (ii) by striking “but not on the Inter-  
 19 state System”; and

20 (B) by striking paragraph (4) and insert-  
 21 ing the following:

22 “(4) LIMITATION ON INTERSTATE PROJECTS.—

23 “(A) IN GENERAL.—The Secretary shall  
 24 not assign any responsibilities to a State for  
 25 projects the Secretary determines to be in a



1 high risk category, as defined under subpara-  
 2 graph (B).

3 “(B) HIGH RISK CATEGORIES.—The Sec-  
 4 retary may define the high risk categories  
 5 under this subparagraph on a national basis, a  
 6 State-by-State basis, or a national and State-  
 7 by-State basis, as determined to be appropriate  
 8 by the Secretary.”;

9 (3) in subsection (e)—

10 (A) in paragraph (1)—

11 (i) in subparagraph (A)—

12 (I) in the matter preceding clause

13 (i)—

14 (aa) by striking “concept”  
 15 and inserting “planning”; and

16 (bb) by striking “multidis-  
 17 ciplined” and inserting “multi-  
 18 disciplinary”; and

19 (II) by striking clause (i) and in-  
 20 serting the following:

21 “(i) providing the needed functions  
 22 and achieving the established commitments  
 23 (including environmental, community, and  
 24 agency commitments) safely, reliably, and  
 25 at the lowest overall lifecycle cost;”; and

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

3 “(ii) refining or redesigning, as appro-  
4 priate, the project using different tech-  
5 nologies, materials, or methods so as to ac-  
6 complish the purpose, functions, and estab-  
7 lished commitments (including environ-  
8 mental, community, and agency commit-  
9 ments) of the project.”;

10 (B) in paragraph (2)—

11 (i) in the matter preceding subpara-  
12 graph (A) by striking “or other cost-reduc-  
13 tion analysis”;

14 (ii) in subparagraph (A) by striking  
15 “Federal-aid system” and inserting “Na-  
16 tional Highway System receiving Federal  
17 assistance”; and

18 (iii) in subparagraph (B) by inserting  
19 “on the National Highway System receiv-  
20 ing Federal assistance” after “a bridge  
21 project”; and

22 (C) by striking paragraph (4) and insert-  
23 ing the following:

24 “(4) REQUIREMENTS.—

1           “(A) VALUE ENGINEERING PROGRAM.—

2           The State shall develop and carry out a value  
3           engineering program that—

4                   “(i) establishes and documents value  
5                   engineering program policies and proce-  
6                   dures;

7                   “(ii) ensures that the required value  
8                   engineering analysis is conducted before  
9                   completing the final design of a project;

10                   “(iii) ensures that the value engineer-  
11                   ing analysis that is conducted, and the rec-  
12                   ommendations developed and implemented  
13                   for each project, are documented in a final  
14                   value engineering report; and

15                   “(iv) monitors, evaluates, and annu-  
16                   ally submits to the Secretary a report that  
17                   describes the results of the value analyses  
18                   that are conducted and the recommenda-  
19                   tions implemented for each of the projects  
20                   described in paragraph (2) that are com-  
21                   pleted in the State.

22           “(B) BRIDGE PROJECTS.—The value engi-  
23           neering analysis for a bridge project under  
24           paragraph (2) shall—

1 “(i) include bridge superstructure and  
 2 substructure requirements based on con-  
 3 struction material; and

4 “(ii) be evaluated by the State—

5 “(I) on engineering and economic  
 6 bases, taking into consideration ac-  
 7 ceptable designs for bridges; and

8 “(II) using an analysis of  
 9 lifecycle costs and duration of project  
 10 construction.”;

11 (4) in subsection (g)(4) by adding at the end  
 12 the following:

13 “(C) FUNDING.—

14 “(i) IN GENERAL.—Subject to project  
 15 approval by the Secretary, a State may ob-  
 16 ligate funds apportioned to the State under  
 17 section 104(b)(2) for carrying out the re-  
 18 sponsibilities of the State under subpara-  
 19 graph (A).

20 “(ii) ELIGIBLE ACTIVITIES.—Activi-  
 21 ties eligible for assistance under this sub-  
 22 paragraph include—

23 “(I) State administration of sub-  
 24 grants; and

1                   “(II) State oversight of subrecipi-  
2                   ents.

3                   “(iii) ANNUAL WORK PLAN.—To re-  
4                   ceive the funding flexibility made available  
5                   under this subparagraph, the State shall  
6                   submit to the Secretary an annual work  
7                   plan identifying activities to be carried out  
8                   under this subparagraph during the appli-  
9                   cable year.

10                  “(iv) FEDERAL SHARE.—The Federal  
11                  share of the cost of activities carried out  
12                  under this subparagraph shall be 100 per-  
13                  cent.”; and

14                  (5) in subsection (h)—

15                         (A) in paragraph (1)(B) by inserting “, in-  
16                         cluding a phasing plan when applicable” after  
17                         “financial plan”; and

18                         (B) by striking paragraph (3) and insert-  
19                         ing the following:

20                         “(3) FINANCIAL PLAN.—A financial plan—

21                                 “(A) shall be based on detailed estimates  
22                                 of the cost to complete the project;

23                                 “(B) shall provide for the annual submis-  
24                                 sion of updates to the Secretary that are based  
25                                 on reasonable assumptions, as determined by

1 the Secretary, of future increases in the cost to  
2 complete the project; and

3 “(C) may include a phasing plan that iden-  
4 tifies fundable incremental improvements or  
5 phases that will address the purpose and the  
6 need of the project in the short term in the  
7 event there are insufficient financial resources  
8 to complete the entire project. If a phasing plan  
9 is adopted for a project pursuant to this sec-  
10 tion, the project shall be deemed to satisfy the  
11 fiscal constraint requirements in the statewide  
12 and metropolitan planning requirements in sec-  
13 tions 134 and 135.”.

14 **SEC. 1503. STANDARDS.**

15 (a) PRACTICAL DESIGN.—Section 109 of title 23,  
16 United States Code, is amended—

17 (1) in subsection (a)—

18 (A) in paragraph (1) by striking “and” at  
19 the end;

20 (B) in paragraph (2) by striking the period  
21 at the end and inserting “; and”; and

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

23 “(3) utilize, when appropriate, practical design  
24 solutions, as defined in this section, to ensure that  
25 transportation needs are met and that funds avail-

1 able for transportation projects are used effi-  
2 ciently.”;

3 (2) in subsection (c)—

4 (A) in paragraph (1), in the matter pre-  
5 ceding subparagraph (A)—

6 (i) by striking “, reconstruction, re-  
7 surfacing (except for maintenance resur-  
8 facing), restoration, or rehabilitation” and  
9 inserting “or reconstruction”; and

10 (ii) by striking “may take into ac-  
11 count” and inserting “shall consider”;

12 (B) in paragraph (2)—

13 (i) in the first sentence of the matter  
14 preceding subparagraph (A) by striking  
15 “may” and inserting “shall”;

16 (ii) in subparagraph (C) by striking  
17 “and” at the end;

18 (iii) by redesignating subparagraph  
19 (D) as subparagraph (F); and

20 (iv) by inserting after subparagraph  
21 (C) the following:

22 “(D) the publication entitled ‘Highway  
23 Safety Manual’ of the American Association of  
24 State Highway and Transportation Officials;

1           “(E) the publication entitled ‘A Guide for  
2           Achieving Flexibility in Highway Design, 1st  
3           Edition’, published by the American Association  
4           of State Highway and Transportation Officials;  
5           and”;

6           (3) in subsection (f) by inserting “pedestrian  
7           walkways,” after “bikeways,”;

8           (4) in subsection (m) by inserting “, safe, and  
9           continuous” after “for a reasonable”;

10          (5) in subsection (q) by striking “consistent  
11          with the operative safety management system estab-  
12          lished in accordance with section 303 or in accord-  
13          ance with” inserting “that is in accordance with a  
14          State’s strategic highway safety plan and included  
15          on”; and

16          (6) by adding at the end the following:

17          “(r) DEFINITION.—In this section, the term ‘prac-  
18          tical design solution’ means a collaborative interdiscipli-  
19          nary approach that results in a transportation project that  
20          fits its physical setting, preserves safety, and balances  
21          costs with the necessary scope and project delivery needs  
22          of the project, as well as with scenic, aesthetic, historic,  
23          and environmental resources.”.



1 (b) ADDITIONAL STANDARDS.—Section 109 of title  
 2 23, United States Code (as amended by subsection (a)(6)),  
 3 is amended by adding at the end the following:

4 “(s) PAVEMENT MARKINGS.—The Secretary shall not  
 5 approve any pavement markings project that includes the  
 6 use of glass beads containing more than 200 parts per  
 7 million of arsenic or lead.”.

8 **SEC. 1504. CONSTRUCTION.**

9 Section 114 of title 23, United States Code, is  
 10 amended—

11 (1) in subsection (b)—

12 (A) by striking paragraph (1) and insert-  
 13 ing the following:

14 “(1) LIMITATION ON CONVICT LABOR.—Convict  
 15 labor shall not be used in construction of Federal-  
 16 aid highways or portions of Federal-aid highways  
 17 unless the labor is performed by convicts who are on  
 18 parole, supervised release, or probation.”; and

19 (B) in paragraph (3) by inserting “in ex-  
 20 istence during that period” after “located on a  
 21 Federal-aid system”; and

22 (2) in subsection (c)—

23 (A) by striking paragraph (1) and insert-  
 24 ing the following:

1           “(1) IN GENERAL.—The Secretary shall ensure  
 2           that a worker who is employed on a remote project  
 3           for the construction of a Federal-aid highway or por-  
 4           tion of a Federal-aid highway in the State of Alaska  
 5           and who is not a domiciled resident of the locality  
 6           shall receive meals and lodging.”; and

7                       (B) in paragraph (3)(C) by striking “high-  
 8                       way or portion of a highway located on a Fed-  
 9                       eral-aid system” and inserting “Federal-aid  
 10                      highway or portion of a Federal-aid highway”.

11 **SEC. 1505. MAINTENANCE.**

12           Section 116 of title 23, United States Code, is  
 13 amended—

14                      (1) in subsection (a)—

15                               (A) in the first sentence, by inserting “or  
 16                               other direct recipient” before “to maintain”;  
 17                               and

18                               (B) by striking the second sentence;

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

21                      “(b) AGREEMENT.—In any State in which the State  
 22                      transportation department or other direct recipient is  
 23                      without legal authority to maintain a project described in  
 24                      subsection (a), the transportation department or direct re-  
 25                      cipient shall enter into a formal agreement with the appro-

1 priate officials of the county or municipality in which the  
2 project is located providing for the maintenance of the  
3 project.”; and

4 (3) in the first sentence of subsection (c) by in-  
5 serting “or other direct recipient” after “State  
6 transportation department”.

7 **SEC. 1506. FEDERAL SHARE PAYABLE.**

8 Section 120 of title 23, United States Code, is  
9 amended—

10 (1) in the first sentence of subsection (c)(1)—

11 (A) by inserting “maintaining minimum  
12 levels of retroreflectivity of highway signs or  
13 pavement markings,” after “traffic control sig-  
14 nalization,”;

15 (B) by inserting “shoulder and centerline  
16 rumble strips and stripes,” after “pavement  
17 marking,”; and

18 (C) by striking “Federal-aid systems” and  
19 inserting “Federal-aid programs”;

20 (2) in subsection (e)—

21 (A) in the first sentence—

22 (i) in the matter preceding paragraph

23 (1) by striking “on such highway” and in-  
24 serting “on the system”; and

1                   (ii) in paragraph (2) by striking “for-  
2                   est highways, forest development roads and  
3                   trails, park roads and trails, parkways,  
4                   public lands highways, public lands devel-  
5                   opment roads and trails, and Indian res-  
6                   ervation roads” and inserting “Federal  
7                   land transportation facilities and tribal  
8                   transportation facilities”; and

9                   (B) by striking the second and third sen-  
10                  tences;

11                  (3) by striking subsection (g) and redesignating  
12                  subsections (h) through (l) as subsections (g)  
13                  through (k), respectively;

14                  (4) in subsection (i)(1)(A) (as redesignated by  
15                  paragraph (3)) by striking “and the Appalachian de-  
16                  velopment highway system program under section  
17                  14501 of title 40”; and

18                  (5) by striking subsections (j) and (k) (as re-  
19                  designated by paragraph (3)) and inserting the fol-  
20                  lowing:

21                  “(j) USE OF FEDERAL AGENCY FUNDS.—Notwith-  
22                  standing any other provision of law, any Federal funds  
23                  other than those made available under this title and title  
24                  49, United States Code, may be used to pay the non-Fed-  
25                  eral share of the cost of any transportation project that

1 is within, adjacent to, or provides access to Federal land,  
 2 the Federal share of which is funded under this title or  
 3 chapter 53 of title 49.

4 “(k) USE OF FEDERAL LAND AND TRIBAL TRANS-  
 5 PORTATION FUNDS.—Notwithstanding any other provi-  
 6 sion of law, the funds authorized to be appropriated to  
 7 carry out the tribal transportation program under section  
 8 202 and the Federal lands transportation program under  
 9 section 203 may be used to pay the non-Federal share of  
 10 the cost of any project that is funded under this title or  
 11 chapter 53 of title 49 and that provides access to or within  
 12 Federal or tribal land.”.

13 **SEC. 1507. TRANSFERABILITY OF FEDERAL-AID HIGHWAY**  
 14 **FUNDS.**

15 (a) IN GENERAL.—Section 126 of title 23, United  
 16 States Code, is amended to read as follows:

17 **“§ 126. Transferability of Federal-aid highway funds**

18 “(a) IN GENERAL.—Notwithstanding any other pro-  
 19 vision of law, subject to subsection (b), a State may trans-  
 20 fer from an apportionment under section 104(b) not to  
 21 exceed 20 percent of the amount apportioned for the fiscal  
 22 year to any other apportionment of the State under that  
 23 section.



1           “(C) the permits are issued exclusively to  
2           vehicles and loads that are delivering relief sup-  
3           plies.

4           “(2) EXPIRATION.—A permit issued under  
5           paragraph (1) shall expire not later than 120 days  
6           after the date of the declaration of emergency under  
7           subparagraph (A) of that paragraph.”.

8   **SEC. 1509. ELECTRIC VEHICLE CHARGING STATIONS.**

9           (a) FRINGE AND CORRIDOR PARKING FACILITIES.—  
10          Section 137 of title 23, United States Code, is amended—

11                 (1) in subsection (a) by inserting after the sec-  
12                 ond sentence the following: “The addition of electric  
13                 vehicle charging stations to new or previously funded  
14                 parking facilities shall be eligible for funding under  
15                 this section.”; and

16                 (2) in subsection (f)(1)—

17                         (A) by striking “104(b)(4)” and inserting  
18                         “104(b)(1)”; and

19                         (B) by inserting “including the addition of  
20                         electric vehicle charging stations,” after “new  
21                         facilities,”.

22           (b) PUBLIC TRANSPORTATION .—Section 142(a)(1)  
23          of title 23, United States Code, is amended by inserting  
24          “(which may include electric vehicle charging stations)”  
25          after “corridor parking facilities”.

1 **SEC. 1510. HOV FACILITIES.**

2 Section 166 of title 23, United States Code, is  
3 amended—

4 (1) in subsection (b)(5)—

5 (A) in subparagraph (A) by striking “Be-  
6 fore September 30, 2009, the” and inserting  
7 “The”; and

8 (B) in subparagraph (B) by striking “Be-  
9 fore September 30, 2009, the” and inserting  
10 “The”; and

11 (2) in subsection (d)(1)—

12 (A) in the matter preceding subparagraph  
13 (A)—

14 (i) by striking “in a fiscal year shall  
15 certify” and inserting “shall submit to the  
16 Secretary a report demonstrating that the  
17 facility is not already degraded, and that  
18 the presence of the vehicles will not cause  
19 the facility to become degraded, and cer-  
20 tify”; and

21 (ii) by striking “in the fiscal year”;

22 (B) in subparagraph (A) by inserting “and  
23 submitting to the Secretary annual reports of  
24 those impacts” after “adjacent highways”;

25 (C) in subparagraph (C) by striking “if the  
26 presence of the vehicles has degraded the oper-



1           ation of the facility” and inserting “whenever  
2           the operation of the facility is degraded”; and

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

4           “(D) MAINTENANCE OF OPERATING PER-  
5           FORMANCE.—A facility that has become de-  
6           graded shall be brought back into compliance  
7           with the minimum average operating speed per-  
8           formance standard by not later than 180 days  
9           after the date on which the degradation is iden-  
10          tified through changes to operation, including  
11          the following:

12           “(i) Increase the occupancy require-  
13           ment for HOVs.

14           “(ii) Increase the toll charged for ve-  
15           hicles allowed under subsection (b) to re-  
16           duce demand.

17           “(iii) Charge tolls to any class of vehi-  
18           cle allowed under subsection (b) that is not  
19           already subject to a toll.

20           “(iv) Limit or discontinue allowing ve-  
21           hicles under subsection (b).

22           “(v) Increase the available capacity of  
23           the HOV facility.

24           “(E) COMPLIANCE.—If the State fails to  
25          bring a facility into compliance under subpara-

1 graph (D), the Secretary shall subject the State  
2 to appropriate program sanctions under section  
3 1.36 of title 23, Code of Federal Regulations  
4 (or successor regulations), until the perform-  
5 ance is no longer degraded.”.

6 **SEC. 1511. CONSTRUCTION EQUIPMENT AND VEHICLES.**

7 (a) IN GENERAL.—Chapter 3 of title 23, United  
8 States Code, is amended by adding at the end the fol-  
9 lowing:

10 **“SEC. 330. CONSTRUCTION EQUIPMENT AND VEHICLES.**

11 “(a) IN GENERAL.—In accordance with the obliga-  
12 tion process established pursuant to section 149(j)(4), a  
13 State shall expend amounts required to be obligated for  
14 this section to install and employ diesel emission control  
15 technology on covered equipment, with an engine that does  
16 not meet any particulate matter emission standards for  
17 the applicable engine power group issued by the Environ-  
18 mental Protection Agency, on a covered highway project  
19 within a PM<sub>2.5</sub> nonattainment or maintenance area.

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

22 “(1) COVERED EQUIPMENT.—The term ‘cov-  
23 ered construction equipment’ means any off-road  
24 diesel equipment or on-road diesel equipment that is  
25 operated on a covered highway construction project

1 for not less than 80 hours over the life of the  
2 project.

3 “(2) COVERED HIGHWAY CONSTRUCTION  
4 PROJECT.—The term ‘covered highway construction  
5 project’ means a highway construction project car-  
6 ried out under this title or any other Federal law  
7 which is funded in whole or in part with Federal  
8 funds.

9 “(3) DIESEL EMISSION CONTROL TECH-  
10 NOLOGY.—The term ‘diesel emission control tech-  
11 nology’ means a technology that—

12 “(A) is—

13 “(i) a diesel exhaust control tech-  
14 nology;

15 “(ii) a diesel engine upgrade;

16 “(iii) a diesel engine repower; or

17 “(iv) an idle reduction control tech-  
18 nology; and

19 “(B) reduces PM<sub>2.5</sub> emissions from covered  
20 equipment by—

21 “(i) not less than 85 percent control  
22 of any emission of particulate matter; or

23 “(ii) the maximum achievable reduc-  
24 tion of any emission of particulate matter.

1           “(4) ELIGIBLE ENTITY.—The term ‘eligible en-  
2           tity’ means an entity that has entered into a prime  
3           contract or agreement with a State to carry out a  
4           covered highway construction project.

5           “(5) OFF-ROAD DIESEL EQUIPMENT.—

6           “(A) IN GENERAL.—The term ‘off-road  
7           diesel equipment’ means a vehicle, including  
8           covered equipment, that is—

9                   “(i) powered by a nonroad diesel en-  
10                   gine of not less than 50 horsepower; and

11                   “(ii) not intended for highway use.

12           “(B) INCLUSIONS.—The term ‘off-road  
13           diesel equipment’ includes a backhoe, bulldozer,  
14           compressor, crane, excavator, generator, and  
15           similar equipment.

16           “(C) EXCLUSIONS.—The term ‘off-road  
17           diesel equipment’ does not include a locomotive  
18           or marine vessel.

19           “(6) ON-ROAD DIESEL EQUIPMENT.—The term  
20           ‘on-road diesel equipment’ means any self-propelled  
21           vehicle that—

22                   “(A) operates on diesel fuel;

23                   “(B) is designed to transport persons or  
24           property on a street or highway; and

1           “(C) has a gross vehicle weight rating of at  
2           least 14,000 pounds.

3           “(7) PM<sub>2.5</sub> NONATTAINMENT OR MAINTENANCE  
4           AREA.—The term ‘PM<sub>2.5</sub> nonattainment or mainte-  
5           nance area’ means a nonattainment or maintenance  
6           area designated under section 107(d)(6) of the  
7           Clean Air Act (42 U.S.C. 7407(d)(6)).

8           “(c) CRITERIA ELIGIBLE ACTIVITIES.—

9           “(1) DIESEL EXHAUST CONTROL TECH-  
10           NOLOGY.—For a diesel exhaust control technology,  
11           the technology shall be—

12                   “(A) installed on a diesel engine or vehicle;

13                   “(B) included in the list of verified or cer-  
14                   tified technologies for non-road vehicles and  
15                   non-road engines (as defined in section 216 of  
16                   the Clean Air Act (42 U.S.C. 7550)) published  
17                   pursuant to subsection (f)(2) of section 149, as  
18                   in effect on the day before the date of enact-  
19                   ment of the MAP-21; and

20                   “(C) certified by the installer as having  
21                   been installed in accordance with the specifica-  
22                   tions included on the list referred to in sub-  
23                   clause (II) for achieving a reduction in PM<sub>2.5</sub>.

1           “(2) DIESEL ENGINE UPGRADE.—For a diesel  
2 engine upgrade, the upgrade shall be performed on  
3 an engine that is—

4           “(A) rebuilt using new components that  
5 collectively appear as a system in the list of  
6 verified or certified technologies for non-road  
7 vehicles and non-road engines (as defined in  
8 section 216 of the Clean Air Act (42 U.S.C.  
9 7550)) published pursuant to subsection (f)(2)  
10 of section 149, as in effect on the day before  
11 the date of enactment of the MAP-21; and

12           “(B) certified by the installer to have been  
13 installed in accordance with the specifications  
14 included on the list referred to in subclause (I)  
15 for achieving a reduction in PM<sub>2.5</sub>.

16           “(3) DIESEL ENGINE REPOWER.—For a diesel  
17 engine repower, the repower shall be conducted on a  
18 new or remanufactured diesel engine that is—

19           “(A) installed as a replacement for an en-  
20 gine used in the existing equipment, subject to  
21 the condition that the replaced engine is—

22           “(i) used for scrap;

23           “(ii) permanently disabled; or

24           “(iii) returned to the original manu-  
25 facturer for remanufacture to a PM level

1           that is at least equivalent to a Tier 2 emis-  
2           sion standard; and

3           “(B) certified by the engine manufacturer  
4           as meeting the emission standards for new vehi-  
5           cles for the applicable engine power group es-  
6           tablished by the Environmental Protection  
7           Agency as in effect on the date on which the  
8           engine is remanufactured.

9           “(4) IDLE REDUCTION CONTROL TECH-  
10          NOLOGY.—For an idle reduction control technology,  
11          the technology shall be—

12                 “(A) installed on a diesel engine or vehicle;

13                 “(B) included in the list of verified or cer-  
14                 tified technologies for non-road vehicles and  
15                 non-road engines (as defined in section 216 of  
16                 the Clean Air Act (42 U.S.C. 7550)) published  
17                 pursuant to subsection (f)(2) of section 149, as  
18                 in effect on the day before the date of enact-  
19                 ment of the MAP-21; and

20                 “(C) certified by the installer as having  
21                 been installed in accordance with the specifica-  
22                 tions included on the list referred to in sub-  
23                 clause (II) for achieving a reduction in PM<sub>2.5</sub>.”.

24          (b) SAVINGS CLAUSE.—Nothing in this section modi-  
25          fies or otherwise affects any authority or restrictions es-

1 tablished under the Clean Air Act (42 U.S.C. 7401 et  
2 seq.).

3 (c) REPORT TO CONGRESS.—

4 (1) IN GENERAL.—Not later than 21 years  
5 after the date of enactment of this Act, the Sec-  
6 retary of Transportation shall submit to the Com-  
7 mittee on Transportation and Infrastructure of the  
8 House of Representatives and the Committee on En-  
9 vironment and Public Works of the Senate a report  
10 that describes the manners in which section 330 of  
11 title 23, United States Code (as added by subsection  
12 (a)) has been implemented, including the quantity of  
13 covered equipment serviced under those sections and  
14 the costs associated with servicing the covered equip-  
15 ment.

16 (2) INFORMATION FROM STATES.—The Sec-  
17 retary shall require States and recipients, as a con-  
18 dition of receiving amounts under this Act or under  
19 the provisions of any amendments made by this Act,  
20 to submit to the Secretary any information that the  
21 Secretary determines necessary to complete the re-  
22 port under paragraph (1).

23 (d) TECHNICAL AMENDMENT.—The analysis for  
24 chapter 3 of title 23, United States Code, is amended by  
25 adding at the end the following:

“330. Construction equipment and vehicles.”.



1 **SEC. 1512. USE OF DEBRIS FROM DEMOLISHED BRIDGES**  
2 **AND OVERPASSES.**

3 Section 1805(a) of the SAFETEA-LU (23 U.S.C.  
4 144 note; 119 Stat. 1459) is amended by striking “high-  
5 way bridge replacement and rehabilitation program under  
6 section 144” and inserting “national highway performance  
7 program under section 119”.

8 **SEC. 1513. EXTENSION OF PUBLIC TRANSIT VEHICLE EX-**  
9 **EMPTION FROM AXLE WEIGHT RESTRIC-**  
10 **TIONS.**

11 Section 1023(h)(1) of the Intermodal Surface Trans-  
12 portation Efficiency Act of 1991 (23 U.S.C. 127 note;  
13 Public Law 102–388) is amended by striking “, for the  
14 period beginning on October 6, 1992, and ending on Octo-  
15 ber 1, 2009,”.

16 **SEC. 1514. UNIFORM RELOCATION ASSISTANCE ACT**  
17 **AMENDMENTS.**

18 (a) MOVING AND RELATED EXPENSES.—Section 202  
19 of the Uniform Relocation Assistance and Real Property  
20 Acquisition Policies Act of 1970 (42 U.S.C. 4622) is  
21 amended—

22 (1) in subsection (a)(4) by striking “\$10,000”  
23 and inserting “\$25,000, as adjusted by regulation,  
24 in accordance with section 213(d)”; and

25 (2) in the second sentence of subsection (c) by  
26 striking “\$20,000” and inserting “\$40,000, as ad-

1       justed by regulation, in accordance with section  
2       213(d)”.

3       (b) REPLACEMENT HOUSING FOR HOMEOWNERS.—

4       The first sentence of section 203(a)(1) of the Uniform Re-  
5       location Assistance and Real Property Acquisition Policies  
6       Act of 1970 (42 U.S.C. 4623(a)(1)) is amended—

7             (1) by striking “\$22,500” and inserting  
8             “\$31,000, as adjusted by regulation, in accordance  
9             with 213(d),”; and

10            (2) by striking “one hundred and eighty days  
11            prior to” and inserting “90 days before”.

12       (c) REPLACEMENT HOUSING FOR TENANTS AND

13       CERTAIN OTHERS.—Section 204 of the Uniform Reloca-  
14       tion Assistance and Real Property Acquisition Policies Act  
15       of 1970 (42 U.S.C. 4624) is amended—

16            (1) in the second sentence of subsection (a) by  
17            striking “\$5,250” and inserting “\$7,200, as ad-  
18            justed by regulation, in accordance with section  
19            213(d),”; and

20            (2) in the second sentence of subsection (b) by  
21            striking “, except” and all that follows through the  
22            end of the subsection and inserting a period.

23       (d) DUTIES OF LEAD AGENCY.—Section 213 of the

24       Uniform Relocation Assistance and Real Property Acquisi-  
25       tion Policies Act of 1970 (42 U.S.C. 4633) is amended—

1 (1) in subsection (b)—

2 (A) in paragraph (2) by striking “and” at  
3 the end;

4 (B) in paragraph (3) by striking the period  
5 at the end and inserting “; and”; and

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

7 “(4) that each Federal agency that has pro-  
8 grams or projects requiring the acquisition of real  
9 property or causing a displacement from real prop-  
10 erty subject to the provisions of this Act shall pro-  
11 vide to the lead agency an annual summary report  
12 the describes the activities conducted by the Federal  
13 agency.”; and

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

15 “(d) ADJUSTMENT OF PAYMENTS.—The head of the  
16 lead agency may adjust, by regulation, the amounts of re-  
17 location payments provided under sections 202(a)(4),  
18 202(e), 203(a), and 204(a) if the head of the lead agency  
19 determines that cost of living, inflation, or other factors  
20 indicate that the payments should be adjusted to meet the  
21 policy objectives of this Act.”.

22 (e) AGENCY COORDINATION.—Title II of the Uni-  
23 form Relocation Assistance and Real Property Acquisition  
24 Policies Act of 1970 is amended by inserting after section  
25 213 (42 U.S.C. 4633) the following:

1 **“SEC. 214. AGENCY COORDINATION.**

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

8       “(b) INTERAGENCY AGREEMENTS.—Not later than 1  
9 year after the date of enactment of this section, each Fed-  
10 eral agency responsible for funding relocation and acquisi-  
11 tion activities (other than the agency serving as the lead  
12 agency) shall enter into a memorandum of understanding  
13 with the lead agency that—

14               “(1) provides for periodic training of the per-  
15 sonnel of the Federal agency, which in the case of  
16 a Federal agency that provides Federal financial as-  
17 sistance, may include personnel of any displacing  
18 agency that receives Federal financial assistance;

19               “(2) addresses ways in which the lead agency  
20 may provide assistance and coordination to the Fed-  
21 eral agency relating to compliance with the Act on  
22 a program or project basis; and

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

26       “(c) INTERAGENCY PAYMENTS.—

1           “(1) IN GENERAL.—For the fiscal year that be-  
2           gins 1 year after the date of enactment of this sec-  
3           tion, and each fiscal year thereafter, each Federal  
4           agency responsible for funding relocation and acqui-  
5           sition activities (other than the agency serving as the  
6           lead agency) shall transfer to the lead agency for the  
7           fiscal year, such funds as are necessary, but not less  
8           than \$35,000, to support the training, assistance,  
9           and coordination activities of the lead agency de-  
10          scribed in subsection (b).

11           “(2) INCLUDED COSTS.—The cost to a Federal  
12          agency of providing the funds described in para-  
13          graph (1) shall be included as part of the cost of 1  
14          or more programs or projects undertaken by the  
15          Federal agency or with Federal financial assistance  
16          that result in the displacement of persons or the ac-  
17          quisition of real property.”.

18          (f) COOPERATION WITH FEDERAL AGENCIES.—Sec-  
19          tion 308 of title 23, United States Code, is amended by  
20          striking subsection (a) and inserting the following:

21           “(a) AUTHORIZED ACTIVITIES.—

22           “(1) IN GENERAL.—The Secretary may per-  
23           form, by contract or otherwise, authorized engineer-  
24           ing or other services in connection with the survey,  
25           construction, maintenance, or improvement of high-

1 ways for other Federal agencies, cooperating foreign  
2 countries, and State cooperating agencies.

3 “(2) INCLUSIONS.—Services authorized under  
4 paragraph (1) may include activities authorized  
5 under section 214 of the Uniform Relocation Assist-  
6 ance and Real Property Acquisition Policies Act of  
7 1970.

8 “(3) REIMBURSEMENT.—Reimbursement for  
9 services carried out under this subsection (including  
10 depreciation on engineering and road-building equip-  
11 ment) shall be credited to the applicable appropria-  
12 tion.”.

13 (g) EFFECTIVE DATES.—

14 (1) IN GENERAL.—Except as provided in para-  
15 graph (2), the amendments made by this section  
16 shall take effect on the date of enactment of this  
17 Act.

18 (2) EXCEPTION.—The amendments made by  
19 subsections (a) through (c) shall take effect 2 years  
20 after the date of enactment of this Act.

21 **SEC. 1515. USE OF YOUTH SERVICE AND CONSERVATION**  
22 **CORPS.**

23 (a) IN GENERAL.—The Secretary shall encourage the  
24 States and regional transportation planning agencies to  
25 enter into contracts and cooperative agreements with

1 Healthy Futures Corps under section 122(a)(2) of the Na-  
2 tional and Community Service Act of 1990 (42 U.S.C.  
3 12572(a)(2)) or qualified urban youth corps (as defined  
4 in section 106(c) of the National and Community Service  
5 Trust Act of 1993 (42 U.S.C. 12656(c)) to perform—

6 (1) appropriate projects eligible under sections  
7 162, 206, and 217 of title 23, United States Code;

8 (2) appropriate transportation enhancement ac-  
9 tivities (as defined in section 101(a) of such title);

10 (3) appropriate transportation byway, trail, or  
11 bicycle and pedestrian projects under section 204 of  
12 such title; and

13 (4) appropriate safe routes to school projects  
14 under section 1404 of the SAFETEA-LU (23  
15 U.S.C. 402 note; 119 Stat. 1228).

16 (b) REQUIREMENTS.—Under any contract or cooper-  
17 ative agreement entered into with a Healthy Futures  
18 Corps or qualified urban youth corps under this section,  
19 the Secretary—

20 (1) shall establish the amount of a living allow-  
21 ance or rate of pay for each participant in such  
22 corps—

23 (A) at such amount or rate as is required  
24 under State law in a State with such a require-  
25 ment; or

1 (B) for corps in a State not described in  
2 subparagraph (A), at such amount or rate as  
3 determined by the Secretary, not to exceed the  
4 maximum living allowance authorized by section  
5 140 of the National and Community Service  
6 Act of 1990 (42 U.S.C. 12594); and

7 (2) shall not subject such corps to the require-  
8 ments of section 112 of title 23, United States Code.

9 **SEC. 1516. CONSOLIDATION OF PROGRAMS; REPEAL OF OB-**  
10 **SOLETE PROVISIONS.**

11 (a) CONSOLIDATION OF PROGRAMS.—From adminis-  
12 trative funds made available under section 104(a) of title  
13 23, United States Code, not less than \$10,000,000 for  
14 each fiscal year shall be made available for the following  
15 activities:

16 (1) To carry out the operation lifesaver pro-  
17 gram—

18 (A) to provide public information and edu-  
19 cation programs to help prevent and reduce  
20 motor vehicle accidents, injuries, and fatalities;  
21 and

22 (B) to improve driver performance at rail-  
23 way-highway crossings.

24 (2) To operate the national work zone safety in-  
25 formation clearinghouse authorized by section



1 358(b)(2) of the National Highway System Designa-  
2 tion Act of 1995 (23 U.S.C. 401 note; 109 Stat.  
3 625)

4 (3) To operate a public road safety clearing-  
5 house in accordance with section 1411(a) of the  
6 SAFETEA-LU (23 U.S.C. 402 note; 119 Stat.  
7 1234).

8 (4) To operate a bicycle and pedestrian safety  
9 clearinghouse in accordance with section 1411(b) of  
10 the SAFETEA-LU (23 U.S.C. 402 note; 119 Stat.  
11 1234).

12 (5) To operate a national safe routes to school  
13 clearinghouse in accordance with section 1404(g) of  
14 the SAFETEA-LU (23 U.S.C. 402 note; 119 Stat.  
15 1229).

16 (6) To provide work zone safety grants in ac-  
17 cordance with subsections (a) and (b) of section  
18 1409 of the SAFETEA-LU (23 U.S.C. 401 note;  
19 119 Stat. 1232).

20 (b) REPEALS.—Sections 105, 110, 117, 124, 147,  
21 151, 155, 160, and 303 of title 23, United States Code,  
22 are repealed.

23 (c) CONFORMING AMENDMENTS.—

24 (1) TITLE ANALYSIS.—The analysis for title 23,  
25 United States Code, is amended by striking the

1 items relating to sections 105, 110, 117, 124, 147,  
2 152, 155, 160, and 303 of that title.

3 (2) SECTION 118.—Section 118 of such title is  
4 amended—

5 (A) in subsection (b)—

6 (i) by striking paragraph (1) and all  
7 that follows through the heading of para-  
8 graph (2); and

9 (ii) by striking “(other than for Inter-  
10 state construction)”; and

11 (B) by striking subsection (c); and

12 (C) by redesignating subsections (d) and  
13 (e) as subsections (c) and (d), respectively.

14 (3) SECTION 130.—Section 130 of such title is  
15 amended—

16 (A) by striking subsections (e) through (h);

17 (B) by redesignating subsection (i) as sub-  
18 section (e);

19 (C) by striking subsections (j) and (k);

20 (D) by redesignating subsection (l) as sub-  
21 section (f);

22 (E) in subsection (e) (as so redesignated)  
23 by striking “this section” the second place it  
24 appears and inserting “section 104(b)(3)”; and

1 (F) in subsection (f) (as so redesignated)  
2 by striking paragraphs (3) and (4).

3 (4) SECTION 142.—Section 142 of title 23,  
4 United States Code, is amended—

5 (A) in subsection (a)—

6 (i) in paragraph (1)—

7 (I) by striking “motor vehicles  
8 (other than rail)” and inserting  
9 “buses”;

10 (II) by striking “(hereafter in  
11 this section referred to as ‘buses’)”;

12 (III) by striking “Federal-aid  
13 systems” and inserting “Federal-aid  
14 highways”; and

15 (IV) by striking “Federal-aid sys-  
16 tem” and inserting “Federal-aid high-  
17 way”; and

18 (ii) in paragraph (2)—

19 (I) by striking “as a project on  
20 the the surface transportation pro-  
21 gram for”; and

22 (II) by striking “section  
23 104(b)(3)” and inserting “section  
24 104(b)(2);

1 (B) in subsection (b) by striking  
2 “104(b)(4)” and inserting “104(b)(1)”;

3 (C) in subsection (c)—

4 (i) by striking “system” in each place  
5 it appears and inserting “highway”; and

6 (ii) by striking “highway facilities”  
7 and inserting “highways eligible under the  
8 program that is the source of the funds”;

9 (D) in subsection (e)(2)—

10 (i) by striking “Notwithstanding sec-  
11 tion 209(f)(1) of the Highway Revenue Act  
12 of 1956, the Highway Trust Fund shall be  
13 available for making expenditures to meet  
14 obligations resulting from projects author-  
15 ized by subsection (a)(2) of this section  
16 and such projects” and inserting “Projects  
17 authorized by subsection (a)(2)”;

18 (ii) striking “on the surface transpor-  
19 tation program” and inserting “under the  
20 transportation mobility program”; and

21 (E) in subsection (f) by striking “exits”  
22 and inserting “exists”.

23 (5) SECTION 145.—Section 145(b) of title 23,  
24 United States Code, is amended by striking “section  
25 117 of this title.”

1           (6) SECTION 322.—Section 322(h)(3) of title  
2           23, United States Code, is amended by striking  
3           “surface transportation program” and inserting “the  
4           transportation mobility program”.

5 **SEC. 1517. RESCISSIONS.**

6           (a) FISCAL YEAR 2012.—

7           (1) Not later than 30 days after the date of en-  
8           actment of this Act, of the unobligated balances  
9           available under sections 144(f) and 320 of title 23,  
10          United States Code, section 147 of Public Law 95–  
11          599 (23 U.S.C. 144 note; 92 Stat. 2714), section  
12          9(c) of Public Law 97–134 (95 Stat. 1702), section  
13          149 of Public Law 100–17 (101 Stat. 181), sections  
14          1006, 1069, 1103, 1104, 1105, 1106, 1107, 1108,  
15          6005, 6015, and 6023 of Public Law 102–240 (105  
16          Stat. 1914), section 1602 of Public Law 105–178  
17          (112 Stat. 256), sections 1301, 1302, 1702, and  
18          1934 of Public Law 109–59 (119 Stat. 1144), and  
19          of other funds apportioned to each State under  
20          chapter 1 of title 23, United States Code, prior to  
21          the date of enactment of this Act, \$2,391,000,000  
22          are permanently rescinded.

23          (2) In administering the rescission required  
24          under this subsection, the Secretary shall allow each  
25          State to determine the amount of the required re-

1       scission to be drawn from the programs to which the  
2       rescission applies.

3       (b) FISCAL YEAR 2013.—

4           (1) On October 1, 2012, of the unobligated bal-  
5       ances of funds apportioned or allocated on or before  
6       that date to each State under chapter 1 of title 23,  
7       United States Code, \$3,054,000,000 are perma-  
8       nently rescinded.

9           (2) Notwithstanding section 1132 of the Energy  
10       Independence and Security Act of 2007 (Public Law  
11       110–140; 121 Stat. 1763), in administering the re-  
12       scission required under this subsection, the Sec-  
13       retary shall allow each State to determine the  
14       amount of the required rescission to be drawn from  
15       the programs to which the rescission applies.

16 **SEC. 1518. STATE AUTONOMY FOR CULVERT PIPE SELEC-**  
17 **TION.**

18       Not later than 180 days after the date of enactment  
19       of this Act, the Secretary shall modify section 635.411 of  
20       title 23, Code of Federal Regulations (as in effect on the  
21       date of enactment of this Act), to ensure that States shall  
22       have the autonomy to determine culvert and storm sewer  
23       material types to be included in the construction of a  
24       project on a Federal-aid highway.

1           **TITLE II—RESEARCH AND**  
2                           **EDUCATION**  
3                           **Subtitle A—Funding**

4   **SEC. 2101. AUTHORIZATION OF APPROPRIATIONS.**

5           (a) IN GENERAL.—The following amounts are au-  
6 thORIZED to be appropriated out of the Highway Trust  
7 Fund (other than the Mass Transit Account):

8                   (1) HIGHWAY RESEARCH AND DEVELOPMENT  
9           PROGRAM.—To carry out sections 503(b) and 509 of  
10 title 23, United States Code, \$90,000,000 for each  
11 of fiscal years 2012 and 2013.

12                   (2) TECHNOLOGY AND INNOVATION DEPLOY-  
13           MENT PROGRAM.—To carry out section 503(c) of  
14 title 23, United States Code, \$90,000,000 for each  
15 of fiscal years 2012 and 2013.

16                   (3) TRAINING AND EDUCATION.—To carry out  
17 section 504 of title 23, United States Code,  
18 \$24,000,000 for each of fiscal years 2012 and 2013.

19                   (4) INTELLIGENT TRANSPORTATION SYSTEMS  
20           PROGRAM.—To carry out sections 512 through 518  
21 of title 23, United States Code, \$100,000,000 for  
22 each of fiscal years 2012 and 2013.

23                   (5) UNIVERSITY TRANSPORTATION CENTERS  
24           PROGRAM.—To carry out section 5505 of title 49,

1 United States Code, \$70,000,000 for each of fiscal  
2 years 2012 and 2013.

3 (6) BUREAU OF TRANSPORTATION STATIS-  
4 TICS.—To carry out chapter 65 of title 49, United  
5 States Code, \$26,000,000 for each of fiscal years  
6 2012 and 2013.

7 (b) APPLICABILITY OF TITLE 23, UNITED STATES  
8 CODE.—Funds authorized to be appropriated by sub-  
9 section (a) shall—

10 (1) be available for obligation in the same man-  
11 ner as if those funds were apportioned under chap-  
12 ter 1 of title 23, United States Code, except that the  
13 Federal share of the cost of a project or activity car-  
14 ried out using those funds shall be 80 percent, un-  
15 less otherwise expressly provided by this Act (includ-  
16 ing the amendments by this Act) or otherwise deter-  
17 mined by the Secretary; and

18 (2) remain available until expended and not be  
19 transferable.

20 **Subtitle B—Research, Technology,**  
21 **and Education**

22 **SEC. 2201. RESEARCH, TECHNOLOGY, AND EDUCATION.**

23 Section 501 of title 23, United States Code, is  
24 amended—



1           (1) by redesignating paragraph (2) as para-  
2 graph (8);

3           (2) by inserting after paragraph (1) the fol-  
4 lowing:

5           “(2) INCIDENT.—The term ‘incident’ means a  
6 crash, natural disaster, workzone activity, special  
7 event, or other emergency road user occurrence that  
8 adversely affects or impedes the normal flow of traf-  
9 fic.

10           “(3) INNOVATION LIFECYCLE.—The term ‘inno-  
11 vation lifecycle’ means the process of innovating  
12 through—

13                   “(A) the identification of a need;

14                   “(B) the establishment of the scope of re-  
15 search to address that need;

16                   “(C) setting an agenda;

17                   “(D) carrying out research, development,  
18 deployment, and testing of the resulting tech-  
19 nology or innovation; and

20                   “(E) carrying out an evaluation of the im-  
21 pact of the resulting technology or innovation.

22           “(4) INTELLIGENT TRANSPORTATION INFRA-  
23 STRUCTURE.—The term ‘intelligent transportation  
24 infrastructure’ means fully integrated public sector

1 intelligent transportation system components, as de-  
2 fined by the Secretary.

3 “(5) INTELLIGENT TRANSPORTATION SYS-  
4 TEM.—The terms ‘intelligent transportation system’  
5 and ‘ITS’ mean electronics, photonics, communica-  
6 tions, or information processing used singly or in  
7 combination to improve the efficiency or safety of a  
8 surface transportation system.

9 “(6) NATIONAL ARCHITECTURE.—For purposes  
10 of this chapter, the term ‘national architecture’  
11 means the common framework for interoperability  
12 that defines—

13 “(A) the functions associated with intel-  
14 ligent transportation system user services;

15 “(B) the physical entities or subsystems  
16 within which the functions reside;

17 “(C) the data interfaces and information  
18 flows between physical subsystems; and

19 “(D) the communications requirements as-  
20 sociated with the information flows.

21 “(7) PROJECT.—The term ‘project’ means an  
22 undertaking to research, develop, or operationally  
23 test intelligent transportation systems or any other  
24 undertaking eligible for assistance under this chap-  
25 ter.”; and

1           (3) by inserting after paragraph (8) (as so re-  
2 designated) the following:

3           “(9) STANDARD.—The term ‘standard’ means a  
4 document that—

5           “(A) contains technical specifications or  
6 other precise criteria for intelligent transpor-  
7 tation systems that are to be used consistently  
8 as rules, guidelines, or definitions of character-  
9 istics so as to ensure that materials, products,  
10 processes, and services are fit for the intended  
11 purposes of the materials, products, processes,  
12 and services; and

13           “(B) may support the national architecture  
14 and promote—

15           “(i) the widespread use and adoption  
16 of intelligent transportation system tech-  
17 nology as a component of the surface  
18 transportation systems of the United  
19 States; and

20           “(ii) interoperability among intelligent  
21 transportation system technologies imple-  
22 mented throughout the States.”.

1 **SEC. 2202. SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT, AND TECHNOLOGY.**  
2

3 (a) SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT, AND TECHNOLOGY.—Section 502 of title 23,  
4 United States Code, is amended—

6 (1) in the section heading by inserting “, DEVELOPMENT, AND TECHNOLOGY” after “SURFACE TRANSPORTATION RESEARCH”;  
7  
8

9 (2) in subsection (a)—

10 (A) by redesignating paragraphs (1) through (8) as paragraphs (2) through (9), respectively;  
11  
12

13 (B) by inserting before paragraph (2) (as redesignated by subparagraph (A)) the following:  
14  
15

16 “(1) APPLICABILITY.—The research, development, and technology provisions of this section shall  
17 apply throughout this chapter.”;  
18

19 (C) in paragraph (2) (as redesignated by subparagraph (A))—  
20

21 (i) by inserting “within the innovation lifecycle” after “activities”; and  
22

23 (ii) by inserting “marketing and communications, impact analysis,” after  
24 “training”;  
25

1 (D) in paragraph (3) (as redesignated by  
2 subparagraph (A))—

3 (i) in subparagraph (B) by striking  
4 “supports research in which there is a  
5 clear public benefit and” and inserting  
6 “delivers a clear public benefit and occurs  
7 where”;

8 (ii) in subparagraph (C) by striking  
9 “or” after the semicolon;

10 (iii) by redesignating subparagraph  
11 (D) as subparagraph (H); and

12 (iv) by inserting after subparagraph  
13 (C) the following:

14 “(D) meets and addresses current or  
15 emerging needs;

16 “(E) presents the best means to align re-  
17 sources with multiyear plans and priorities;

18 “(F) ensures the coordination of highway  
19 research and technology transfer activities, in-  
20 cluding through activities performed by univer-  
21 sity transportation centers;

22 “(G) educates current and future transpor-  
23 tation professionals; or”;

1           (E) in paragraph (4) (as redesignated by  
2           subparagraph (A)) by striking subparagraphs  
3           (B) through (D) and inserting the following:

4           “(B) partner with State highway agencies  
5           and other stakeholders as appropriate, includ-  
6           ing international entities, to facilitate research  
7           and technology transfer activities;

8           “(C) communicate the results of ongoing  
9           and completed research;

10          “(D) lead efforts to coordinate national  
11          emphasis areas of highway research, technology,  
12          and innovation deployment;

13          “(E) leverage partnerships with industry,  
14          academia, and international entities; and

15          “(F) conduct, facilitate, and support train-  
16          ing and education of current and future trans-  
17          portation professionals.”;

18          (F) in paragraph (5)(C) (as redesignated  
19          by subparagraph (A)) by striking “policy and  
20          planning” and inserting “all highway objectives  
21          seeking to improve the performance of the  
22          transportation system”;

23          (G) in paragraph (6) (as redesignated by  
24          subparagraph (A)) in the second sentence, by

1 inserting “tribal governments,” after “local gov-  
2 ernments,”; and

3 (H) in paragraph (8) (as redesignated by  
4 subparagraph (A))—

5 (i) in the first sentence, by striking  
6 “To the maximum” and inserting the fol-  
7 lowing:

8 “(A) IN GENERAL.—To the maximum”;

9 (ii) in the second sentence, by striking  
10 “Performance measures” and inserting the  
11 following:

12 “(B) PERFORMANCE MEASURES.—Per-  
13 formance measures”;

14 (iii) in the third sentence, by striking  
15 “All evaluations” and inserting the fol-  
16 lowing:

17 “(D) AVAILABILITY OF EVALUATIONS.—All  
18 evaluations under this paragraph”; and

19 (iv) by inserting after subparagraph  
20 (B) the following:

21 “(C) PROGRAM PLAN.—To the maximum  
22 extent practicable, each program pursued under  
23 this chapter shall be part of a data-driven, out-  
24 come-oriented program plan.”;

25 (3) in subsection (b)—

1 (A) in paragraph (4) by striking “surface  
2 transportation research and technology develop-  
3 ment strategic plan developed under section  
4 508” and inserting “the transportation research  
5 and development strategic plan of the Sec-  
6 retary”;

7 (B) in paragraph (5) by striking “section”  
8 each place it appears and inserting “chapter”;

9 (C) in paragraph (6) by adding at the end  
10 the following:

11 “(C) TRANSFER OF AMOUNTS AMONG  
12 STATES OR TO FEDERAL HIGHWAY ADMINIS-  
13 TRATION.—The Secretary may, at the request  
14 of a State, transfer amounts apportioned or al-  
15 located to that State under this chapter to an-  
16 other State or the Federal Highway Adminis-  
17 tration to fund research, development, and tech-  
18 nology transfer activities of mutual interest on  
19 a pooled funds basis.

20 “(D) TRANSFER OF OBLIGATION AUTHOR-  
21 ITY.—Obligation authority for amounts trans-  
22 ferred under this subsection shall be disbursed  
23 in the same manner and for the same amount  
24 as provided for the project being transferred.”;  
25 and



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

2 “(7) PRIZE COMPETITIONS.—

3 “(A) IN GENERAL.—The Secretary may  
4 carry out prize competitions to award competi-  
5 tive prizes for surface transportation innova-  
6 tions that have the potential for application to  
7 the research and technology objectives and ac-  
8 tivities of the Federal Highway Administration  
9 to improve system performance.

10 “(B) REQUIREMENTS.—

11 “(i) IN GENERAL.—The Secretary  
12 shall use a competitive process for the se-  
13 lection of prize recipients and shall widely  
14 advertise and solicit participation in prize  
15 competitions under this paragraph.

16 “(ii) REGISTRATION REQUIRED.—No  
17 individual or entity shall participate in a  
18 prize competition under this paragraph un-  
19 less the individual or entity has registered  
20 with the Secretary in accordance with the  
21 eligibility requirements established by the  
22 Secretary under clause (iii).

23 “(iii) MINIMUM REQUIREMENTS.—The  
24 Secretary shall establish eligibility require-  
25 ments for participation in each prize com-

1 petition under this paragraph, which, at a  
2 minimum, shall—

3 “(I) limit participation in the  
4 prize competition to—

5 “(aa) individuals who are  
6 citizens of the United States;

7 “(bb) entities organized or  
8 existing under the laws of the  
9 United States or of a State; and

10 “(cc) entities organized or  
11 existing under the laws of a for-  
12 eign country, if the controlling  
13 interest, as defined by the Sec-  
14 retary, is held by an individual or  
15 entity described in item (aa) or  
16 (bb);

17 “(II) require any individual or  
18 entity that registers for a prize com-  
19 petition—

20 “(aa) to assume all risks  
21 arising from participation in the  
22 competition; and

23 “(bb) to waive all claims  
24 against the Federal Government  
25 for any damages arising out of

1 participation in the competition,  
2 including all claims, whether  
3 through negligence or otherwise,  
4 except in the case of willful mis-  
5 conduct, for—

6 “(AA) injury, death,  
7 damage, or loss of property;

8 or

9 “(BB) loss of revenue  
10 or profits, whether direct,  
11 indirect, or consequential;  
12 and

13 “(III) require any individual or  
14 entity that registers for a prize com-  
15 petition to waive all claims against  
16 any non-Federal entity operating or  
17 managing the prize competition, such  
18 as a private contractor managing  
19 competition activities, to the extent  
20 that the Secretary believes is nec-  
21 essary to protect the interests of the  
22 Federal Government.

23 “(C) RELATIONSHIP TO OTHER AUTHOR-  
24 ITY.—The Secretary may exercise the authority  
25 in this section in conjunction with, or in addi-

1           tion to, any other authority of the Secretary to  
 2           acquire, support, or stimulate innovations with  
 3           the potential for application to the Federal  
 4           highway research technology and education pro-  
 5           gram.”;

6           (4) in subsection (c)—

7                 (A) in paragraph (3)(A)—

8                     (i) by striking “subsection” and in-  
 9                     serting “chapter”; and

10                    (ii) by striking “50” and inserting  
 11                    “80”; and

12                 (B) in paragraph (4) by striking “sub-  
 13                 section” and inserting “chapter”; and

14                 (5) by striking subsections (d) through (j).

15           (b) CONFORMING AMENDMENT.—The analysis for  
 16 chapter 5 of title 23, United States Code, is amended by  
 17 striking the item relating to section 502 and inserting the  
 18 following:

“502. Surface transportation research, development, and technology.”.

19 **SEC. 2203. RESEARCH AND TECHNOLOGY DEVELOPMENT**  
 20 **AND DEPLOYMENT.**

21           (a) IN GENERAL.—Section 503 of title 23, United  
 22 States Code, is amended to read as follows:

23 **“§ 503. Research and technology development and de-**  
 24 **ployment**

25           “(a) IN GENERAL.—The Secretary shall—

1           “(1) carry out research, development, and de-  
2           ployment activities that encompass the entire inno-  
3           vation lifecycle; and

4           “(2) ensure that all research carried out under  
5           this section aligns with the transportation research  
6           and development strategic plan of the Secretary.

7           “(b) HIGHWAY RESEARCH AND DEVELOPMENT PRO-  
8           GRAM.—

9           “(1) OBJECTIVES.—In carrying out the high-  
10          way research and development program, the Sec-  
11          retary, to address current and emerging highway  
12          transportation needs, shall—

13                 “(A) identify research topics;

14                 “(B) coordinate domestic and international  
15          research and development activities;

16                 “(C) carry out research, testing, and eval-  
17          uation activities; and

18                 “(D) provide technology transfer and tech-  
19          nical assistance.

20          “(2) CONTENTS.—Research and development  
21          activities carried out under this section may include  
22          any of the following activities:

23                 “(A) IMPROVING HIGHWAY SAFETY.—

24                         “(i) IN GENERAL.—The Secretary  
25                         shall carry out research and development

1 activities from an integrated perspective to  
2 establish and implement systematic meas-  
3 ures to improve highway safety.

4 “(ii) OBJECTIVES.—In carrying out  
5 this subparagraph the Secretary shall  
6 carry out research and development activi-  
7 ties—

8 “(I) to achieve greater long-term  
9 safety gains;

10 “(II) to reduce the number of fa-  
11 talities and serious injuries on public  
12 roads;

13 “(III) to fill knowledge gaps that  
14 limit the effectiveness of research;

15 “(IV) to support the development  
16 and implementation of State strategic  
17 highway safety plans;

18 “(V) to advance improvements  
19 in, and use of, performance prediction  
20 analysis for decisionmaking; and

21 “(VI) to expand technology  
22 transfer to partners and stakeholders.

23 “(iii) CONTENTS.—Research and tech-  
24 nology activities carried out under this  
25 subparagraph may include—

- 1                   “(I) safety assessments and deci-  
2                   sionmaking tools;
- 3                   “(II) data collection and analysis;
- 4                   “(III) crash reduction projec-  
5                   tions;
- 6                   “(IV) low-cost safety counter-  
7                   measures;
- 8                   “(V) innovative operational im-  
9                   provements and designs of roadway  
10                  and roadside features;
- 11                  “(VI) evaluation of counter-  
12                  measure costs and benefits;
- 13                  “(VII) development of tools for  
14                  projecting impacts of safety counter-  
15                  measures;
- 16                  “(VIII) rural road safety meas-  
17                  ures;
- 18                  “(IX) safety measures for vulner-  
19                  able road users, including bicyclists  
20                  and pedestrians;
- 21                  “(X) safety policy studies;
- 22                  “(XI) human factors studies and  
23                  measures;
- 24                  “(XII) safety technology deploy-  
25                  ment;

1                   “(XIII) safety workforce profes-  
2                   sional capacity building initiatives;

3                   “(XIV) safety program and proc-  
4                   ess improvements; and

5                   “(XV) tools and methods to en-  
6                   hance safety performance, including  
7                   achievement of statewide safety per-  
8                   formance targets.

9                   “(B) IMPROVING INFRASTRUCTURE INTEG-  
10                   RITY.—

11                   “(i) IN GENERAL.—The Secretary  
12                   shall carry out and facilitate highway in-  
13                   frastructure research and development ac-  
14                   tivities—

15                   “(I) to maintain infrastructure  
16                   integrity;

17                   “(II) to meet user needs; and

18                   “(III) to link Federal transpor-  
19                   tation investments to improvements in  
20                   system performance.

21                   “(ii) OBJECTIVES.—In carrying out  
22                   this subparagraph, the Secretary shall  
23                   carry out research and development activi-  
24                   ties—



- 1           “(I) to reduce the number of fa-  
2           talities attributable to infrastructure  
3           design characteristics and work zones;  
4           “(II) to improve the safety and  
5           security of highway infrastructure;  
6           “(III) to increase the reliability  
7           of lifecycle performance predictions  
8           used in infrastructure design, con-  
9           struction, and management;  
10          “(IV) to improve the ability of  
11          transportation agencies to deliver  
12          projects that meet expectations for  
13          timeliness, quality, and cost;  
14          “(V) to reduce user delay attrib-  
15          utable to infrastructure system per-  
16          formance, maintenance, rehabilitation,  
17          and construction;  
18          “(VI) to improve highway condi-  
19          tion and performance through in-  
20          creased use of design, materials, con-  
21          struction, and maintenance innova-  
22          tions;  
23          “(VII) to reduce the lifecycle en-  
24          vironmental impacts of highway infra-  
25          structure through innovations in de-

1 sign, construction, operation, preser-  
2 vation, and maintenance; and

3 “(VIII) to study vulnerabilities of  
4 the transportation system to seismic  
5 activities and extreme events and  
6 methods to reduce those  
7 vulnerabilities.

8 “(iii) CONTENTS.—Research and tech-  
9 nology activities carried out under this  
10 subparagraph may include—

11 “(I) long-term infrastructure per-  
12 formance programs addressing pave-  
13 ments, bridges, tunnels, and other  
14 structures;

15 “(II) short-term and accelerated  
16 studies of infrastructure performance;

17 “(III) research to develop more  
18 durable infrastructure materials and  
19 systems;

20 “(IV) advanced infrastructure de-  
21 sign methods;

22 “(V) accelerated highway con-  
23 struction;

24 “(VI) performance-based speci-  
25 fications;

1                   “(VII) construction and materials  
2                   quality assurance;

3                   “(VIII) comprehensive and inte-  
4                   grated infrastructure asset manage-  
5                   ment;

6                   “(IX) infrastructure safety assur-  
7                   ance;

8                   “(X) highway infrastructure se-  
9                   curity;

10                  “(XI) sustainable infrastructure  
11                  design and construction;

12                  “(XII) infrastructure rehabilita-  
13                  tion and preservation techniques, in-  
14                  cluding techniques to rehabilitate and  
15                  preserve historic infrastructure;

16                  “(XIII) hydraulic, geotechnical,  
17                  and aerodynamic aspects of infra-  
18                  structure;

19                  “(XIV) improved highway con-  
20                  struction technologies and practices;

21                  “(XV) improved tools, tech-  
22                  nologies, and models for infrastruc-  
23                  ture management, including assess-  
24                  ment and monitoring of infrastructure  
25                  condition;

1           “(XVI) studies to improve flexi-  
2           bility and resiliency of infrastructure  
3           systems to withstand climate varia-  
4           bility;

5           “(XVII) studies of infrastructure  
6           resilience and other adaptation meas-  
7           ures; and

8           “(XVIII) maintenance of seismic  
9           research activities, including research  
10          carried out in conjunction with other  
11          Federal agencies to study the vulner-  
12          ability of the transportation system to  
13          seismic activity and methods to reduce  
14          that vulnerability.

15          “(iv) LIFECYCLE COSTS ANALYSIS  
16          STUDY.—

17               “(I) IN GENERAL.—In this  
18               clause, the term ‘lifecycle costs anal-  
19               ysis’ means a process for evaluating  
20               the total economic worth of a usable  
21               project segment by analyzing initial  
22               costs and discounted future costs,  
23               such as maintenance, user, recon-  
24               struction, rehabilitation, restoring,

1 and resurfacing costs, over the life of  
2 the project segment.

3 “(II) STUDY.—The Comptroller  
4 General shall conduct a study of the  
5 best practices for calculating lifecycle  
6 costs for federally funded highway  
7 projects. At a minimum, this study  
8 shall include a thorough literature re-  
9 view and a survey of current lifecycle  
10 cost practices of State departments of  
11 transportation.

12 “(III) CONSULTATION.—In car-  
13 rying out this study, the Comptroller  
14 shall consult with, at a minimum—

15 “(aa) the American Associa-  
16 tion of State Highway and  
17 Transportation Officials;

18 “(bb) appropriate experts in  
19 the field of lifecycle cost analysis;  
20 and

21 “(cc) appropriate industry  
22 experts and research centers.

23 “(IV) REPORT.—Not later than  
24 1 year after the date of enactment of  
25 the MAP-21, the Comptroller General

1 shall submit to the Committee on En-  
 2 vironment and Public Works of the  
 3 Senate and the Committee on Trans-  
 4 portation and Infrastructure of the  
 5 House of Representatives a report on  
 6 the results of the study which shall in-  
 7 clude, but is not limited to—

8 “(aa) a summary of the lat-  
 9 est research on lifecycle cost  
 10 analysis; and

11 “(bb) recommendations on  
 12 the appropriate—

13 “(AA) period of anal-  
 14 ysis;

15 “(BB) design period;

16 “(CC) discount rates;  
 17 and

18 “(DD) use of actual  
 19 material life and mainte-  
 20 nance cost data.

21 “(C) STRENGTHENING TRANSPORTATION  
 22 PLANNING AND ENVIRONMENTAL DECISION-  
 23 MAKING.—

24 “(i) IN GENERAL.—The Secretary  
 25 shall carry out research—

1           “(I) to improve transportation  
2           planning and environmental decision-  
3           making processes; and

4           “(II) to minimize the impact of  
5           surface transportation on the environ-  
6           ment and quality of life.

7           “(ii) OBJECTIVES.—In carrying out  
8           this subparagraph the Secretary shall  
9           carry out research and development activi-  
10          ties—

11           “(I) to reduce the impact of high-  
12           way infrastructure and operations on  
13           the natural and human environment;

14           “(II) to advance improvements in  
15           environmental analyses and processes  
16           and context sensitive solutions for  
17           transportation decisionmaking;

18           “(III) to improve construction  
19           techniques;

20           “(IV) to accelerate construction  
21           to reduce congestion and related emis-  
22           sions;

23           “(V) to reduce the impact of  
24           highway runoff on the environment;

1                   “(VI) to maintain sustainability  
2 of biological communities and eco-  
3 systems adjacent to highway cor-  
4 ridors;

5                   “(VII) to improve understanding  
6 and modeling of the factors that con-  
7 tribute to the demand for transpor-  
8 tation;

9                   “(VIII) to improve transportation  
10 planning decisionmaking and coordi-  
11 nation; and

12                   “(IX) to reduce the environ-  
13 mental impacts of freight movement.

14                   “(iii) CONTENTS.—Research and tech-  
15 nology activities carried out under this  
16 subparagraph may include—

17                   “(I) creation of models and tools  
18 for evaluating transportation meas-  
19 ures and transportation system de-  
20 signs;

21                   “(II) congestion reduction ef-  
22 forts;

23                   “(III) transportation planning in  
24 rural areas and small communities;



- 1           “(IV) improvement of State,  
2 local, and tribal capabilities relating  
3 to surface transportation planning  
4 and the environment;
- 5           “(V) environmental stewardship  
6 and sustainability activities;
- 7           “(VI) streamlining of project de-  
8 livery processes;
- 9           “(VII) development of effective  
10 strategies and techniques to analyze  
11 and minimize impacts to the natural  
12 and human environment and provide  
13 environmentally beneficial mitigation;
- 14           “(VIII) comprehensive multi-  
15 national planning;
- 16           “(IX) multistate transportation  
17 corridor planning;
- 18           “(X) improvement of transpor-  
19 tation choices, including walking, bicy-  
20 cling, and linkages to public transpor-  
21 tation;
- 22           “(XI) ecosystem sustainability;
- 23           “(XII) wildlife and plant popu-  
24 lation connectivity and interaction  
25 across and along highway corridors;

1                   “(XIII) analysis, measurement,  
2                   and reduction of air pollution from  
3                   transportation sources;

4                   “(XIV) advancement in the un-  
5                   derstanding of health impact analyses  
6                   in transportation planning and project  
7                   development;

8                   “(XV) transportation planning  
9                   professional development;

10                  “(XVI) research on improving  
11                  the cooperation and integration of  
12                  transportation planning with other re-  
13                  gional plans, including land use, en-  
14                  ergy, water infrastructure, and hous-  
15                  ing plans; and

16                  “(XVII) reducing the environ-  
17                  mental impacts of freight movement.

18                  “(D) REDUCING CONGESTION, IMPROVING  
19                  HIGHWAY OPERATIONS, AND ENHANCING  
20                  FREIGHT PRODUCTIVITY.—

21                  “(i) IN GENERAL.—The Secretary  
22                  shall carry out research under this sub-  
23                  paragraph with the goals of—

24                  “(I) addressing congestion prob-  
25                  lems;

1                   “(II) reducing the costs of con-  
2                   gestion;

3                   “(III) improving freight move-  
4                   ment;

5                   “(IV) increasing productivity;  
6                   and

7                   “(V) improving the economic  
8                   competitiveness of the United States.

9                   “(ii) OBJECTIVES.—In carrying out  
10                  this subparagraph, the Secretary shall  
11                  carry out research and development activi-  
12                  ties to identify, develop, and assess innova-  
13                  tions that have the potential—

14                   “(I) to reduce traffic congestion;

15                   “(II) to improve freight move-  
16                   ment; and

17                   “(III) to reduce freight-related  
18                   congestion throughout the transpor-  
19                   tation network.

20                   “(iii) CONTENTS.—Research and tech-  
21                   nology activities carried out under this  
22                   subparagraph may include—

23                   “(I) active traffic and demand  
24                   management;

- 1                   “(II) acceleration of the imple-  
2                   mentation of Intelligent Transpor-  
3                   tation Systems technology;
- 4                   “(III) advanced transportation  
5                   concepts and analysis;
- 6                   “(IV) arterial management and  
7                   traffic signal operation;
- 8                   “(V) congestion pricing;
- 9                   “(VI) corridor management;
- 10                  “(VII) emergency operations;
- 11                  “(VIII) research relating to ena-  
12                  bling technologies and applications;
- 13                  “(IX) freeway management;
- 14                  “(X) evaluation of enabling tech-  
15                  nologies;
- 16                  “(XI) freight industry profes-  
17                  sional development;
- 18                  “(XII) impacts of vehicle size  
19                  and weight on congestion;
- 20                  “(XIII) freight operations and  
21                  technology;
- 22                  “(XIV) operations and freight  
23                  performance measurement and man-  
24                  agement;

1 “(XV) organization and planning  
2 for operations;

3 “(XVI) planned special events  
4 management;

5 “(XVII) real-time transportation  
6 information;

7 “(XVIII) road weather manage-  
8 ment;

9 “(XIX) traffic and freight data  
10 and analysis tools;

11 “(XX) traffic control devices;

12 “(XXI) traffic incident manage-  
13 ment;

14 “(XXII) work zone management;

15 “(XXIII) communication of trav-  
16 el, roadway, and emergency informa-  
17 tion to persons with disabilities; and

18 “(XXIV) research on enhanced  
19 mode choice and intermodal  
20 connectivity.

21 “(E) ASSESSING POLICY AND SYSTEM FI-  
22 NANCING ALTERNATIVES.—

23 “(i) IN GENERAL.—The Secretary  
24 shall carry out research and technology on  
25 emerging issues in the domestic and inter-

1 national transportation community from a  
2 policy perspective.

3 “(ii) OBJECTIVES.—Research and  
4 technology activities carried out under this  
5 subparagraph shall provide information to  
6 policy and decisionmakers on current and  
7 emerging transportation issues.

8 “(iii) RESEARCH ACTIVITIES.—Activi-  
9 ties carried out under this subparagraph  
10 shall include—

11 “(I) the planning and integration  
12 of a coordinated program related to  
13 the possible design, interoperability,  
14 and institutional roles of future sus-  
15 tainable transportation revenue mech-  
16 anisms;

17 “(II) field trials to research po-  
18 tential alternative revenue mecha-  
19 nisms, and may partner with indi-  
20 vidual States, groups of States, or  
21 other entities to implement such  
22 trials; and

23 “(III) other activities to study  
24 new methods which preserve a user-  
25 fee structure to maintain the long-

1 term solvency of the Highway Trust  
2 Fund.

3 “(iv) CONTENTS.—Research and tech-  
4 nology activities carried out under this  
5 subparagraph may include—

6 “(I) highway needs and invest-  
7 ment analysis;

8 “(II) motor fuel tax evasion pro-  
9 gram;

10 “(III) advancing innovations in  
11 revenue generation, financing, and  
12 procurement for project delivery;

13 “(IV) improving the accuracy of  
14 project cost analyses;

15 “(V) highway performance meas-  
16 urement;

17 “(VI) travel demand performance  
18 measurement;

19 “(VII) highway finance perform-  
20 ance measurement;

21 “(VIII) international technology  
22 exchange initiatives;

23 “(IX) infrastructure investment  
24 needs reports;

1           “(X) promotion of the tech-  
2           nologies, products, and best practices  
3           of the United States; and

4           “(XI) establishment of partner-  
5           ships among the United States, for-  
6           eign agencies, and transportation ex-  
7           perts.

8           “(v) FUNDING.—Of the funds author-  
9           ized to carry out this subsection, no less  
10          than 50 percent shall be used to carry out  
11          clause (iii).

12          “(F)    INFRASTRUCTURE    INVESTMENT  
13          NEEDS REPORT.—

14               “(i) IN GENERAL.—Not later than  
15               July 31, 2012, and July 31 of every sec-  
16               ond year thereafter, the Secretary shall  
17               submit to the Committee on Transpor-  
18               tation and Infrastructure of the House of  
19               Representatives and the Committee on En-  
20               vironment and Public Works of the Senate  
21               a report that describes estimates of the fu-  
22               ture highway and bridge needs of the  
23               United States and the backlog of current  
24               highway and bridge needs.



1           “(ii) COMPARISONS.—Each report  
2           under clause (i) shall include all informa-  
3           tion necessary to relate and compare the  
4           conditions and service measures used in  
5           the previous biennial reports to conditions  
6           and service measures used in the current  
7           report.

8           “(iii) INCLUSIONS.—Each report  
9           under clause (i) shall provide recommenda-  
10          tions to Congress on changes to the High-  
11          way Performance Monitoring System that  
12          address—

13               “(I) improvements to the quality  
14               and standardization of data collection  
15               on all functional classifications of  
16               Federal-aid highways for accurate sys-  
17               tem length, lane length, and vehicle-  
18               mile of travel; and

19               “(II) changes to the reporting re-  
20               quirements authorized under section  
21               315, to reflect recommendations  
22               under this paragraph for collection,  
23               storage, analysis, reporting, and dis-  
24               play of data for Federal-aid highways

1                   and, to the maximum extent practical,  
2                   all public roads.

3                   “(G) EXPLORING NEXT GENERATION SO-  
4                   LUTIONS AND CAPITALIZING ON THE HIGHWAY  
5                   RESEARCH CENTER.—

6                   “(i) IN GENERAL.—The Secretary  
7                   shall carry out research and development  
8                   activities relating to exploratory advanced  
9                   research—

10                   “(I) to leverage the targeted ca-  
11                   pabilities of the Turner-Fairbank  
12                   Highway Research Center to develop  
13                   technologies and innovations of na-  
14                   tional importance; and

15                   “(II) to develop potentially trans-  
16                   formational solutions to improve the  
17                   durability, efficiency, environmental  
18                   impact, productivity, and safety as-  
19                   pects of highway and intermodal  
20                   transportation systems.

21                   “(ii) CONTENTS.—Research and tech-  
22                   nology activities carried out under this  
23                   subparagraph may include—

1           “(I) long-term, high-risk research  
2           to improve the materials used in high-  
3           way infrastructure;

4           “(II) exploratory research to as-  
5           sess the effects of transportation deci-  
6           sions on human health;

7           “(III) advanced development of  
8           surrogate measures for highway safe-  
9           ty;

10          “(IV) transformational research  
11          to affect complex environmental and  
12          highway system relationships;

13          “(V) development of economical  
14          and environmentally sensitive designs,  
15          efficient and quality-controlled con-  
16          struction practices, and durable mate-  
17          rials;

18          “(VI) development of advanced  
19          data acquisition techniques for system  
20          condition and performance moni-  
21          toring;

22          “(VII) inclusive research for  
23          hour-to-hour operational decision-  
24          making and simulation forecasting;

1           “(VIII) understanding current  
2           and emerging phenomena to inform  
3           next generation transportation policy  
4           decisionmaking; and

5           “(IX) continued improvement  
6           and advancement of the Turner-  
7           Fairbank Highway Research Center.

8           “(H) ALIGNING NATIONAL CHALLENGES  
9           AND DISSEMINATING INFORMATION.—

10           “(i) IN GENERAL.—The Secretary  
11           shall conduct research and development ac-  
12           tivities—

13           “(I) to establish a nationally co-  
14           ordinated highway research agenda  
15           that—

16           “(aa) focuses on topics of  
17           national significance;

18           “(bb) addresses current gaps  
19           in research;

20           “(cc) encourages collabora-  
21           tion;

22           “(dd) reduces unnecessary  
23           duplication of effort; and

24           “(ee) accelerates innovation  
25           delivery; and

1                   “(II) to provide relevant informa-  
2                   tion to researchers and highway and  
3                   transportation practitioners to im-  
4                   prove the performance of the trans-  
5                   portation system.

6                   “(ii) CONTENTS.—Research and tech-  
7                   nology activities carried out under this  
8                   subparagraph may include—

9                   “(I) coordination, development,  
10                  and implementation of a national  
11                  highway research agenda;

12                  “(II) collaboration on national  
13                  emphasis areas of highway research  
14                  and coordination among international,  
15                  Federal, State, and university re-  
16                  search programs;

17                  “(III) development and delivery  
18                  of research reports and innovation de-  
19                  livery messages;

20                  “(IV) identification of market-  
21                  ready technologies and innovations;  
22                  and

23                  “(V) provision of access to data  
24                  developed under this subparagraph to  
25                  the public, including researchers,

1 stakeholders, and customers, through  
2 a publicly accessible Internet site.

3 “(c) TECHNOLOGY AND INNOVATION DEPLOYMENT  
4 PROGRAM.—

5 “(1) IN GENERAL.—The Secretary shall carry  
6 out a technology and innovation deployment pro-  
7 gram relating to all aspects of highway transpor-  
8 tation, including planning, financing, operation,  
9 structures, materials, pavements, environment, con-  
10 struction, and the duration of time between project  
11 planning and project delivery, with the goals of—

12 “(A) significantly accelerating the adoption  
13 of innovative technologies by the surface trans-  
14 portation community;

15 “(B) providing leadership and incentives to  
16 demonstrate and promote state-of-the-art tech-  
17 nologies, elevated performance standards, and  
18 new business practices in highway construction  
19 processes that result in improved safety, faster  
20 construction, reduced congestion from construc-  
21 tion, and improved quality and user satisfac-  
22 tion;

23 “(C) constructing longer-lasting highways  
24 through the use of innovative technologies and

1 practices that lead to faster construction of effi-  
2 cient and safe highways and bridges;

3 “(D) improving highway efficiency, safety,  
4 mobility, reliability, service life, environmental  
5 protection, and sustainability; and

6 “(E) developing and deploying new tools,  
7 techniques, and practices to accelerate the  
8 adoption of innovation in all aspects of highway  
9 transportation.

10 “(2) IMPLEMENTATION.—

11 “(A) IN GENERAL.—The Secretary shall  
12 promote, facilitate, and carry out the program  
13 established under paragraph (1) to distribute  
14 the products, technologies, tools, methods, or  
15 other findings that result from highway re-  
16 search and development activities, including re-  
17 search and development activities carried out  
18 under this chapter.

19 “(B) ACCELERATED INNOVATION DEPLOY-  
20 MENT.—In carrying out the program estab-  
21 lished under paragraph (1), the Secretary  
22 shall—

23 “(i) establish and carry out dem-  
24 onstration programs;

1           “(ii) provide incentives, technical as-  
2           sistance, and training to researchers and  
3           developers; and

4           “(iii) develop improved tools and  
5           methods to accelerate the adoption of prov-  
6           en innovative practices and technologies as  
7           standard practices.

8           “(C) IMPLEMENTATION OF FUTURE STRA-  
9           TEGIC HIGHWAY RESEARCH PROGRAM FINDINGS  
10           AND RESULTS.—

11           “(i) IN GENERAL.—The Secretary, in  
12           consultation with the American Association  
13           of State Highway and Transportation Offi-  
14           cials and the Transportation Research  
15           Board of the National Academy of  
16           Sciences, shall implement the findings and  
17           recommendations developed under the fu-  
18           ture strategic highway research program  
19           established under section 510.

20           “(ii) BASIS FOR FINDINGS.—The ac-  
21           tivities carried out under this subpara-  
22           graph shall be based on the report sub-  
23           mitted to Congress by the Transportation  
24           Research Board of the National Academy  
25           of Sciences under section 510(e).



1           “(iii) PERSONNEL.—The Secretary  
2           may use funds made available to carry out  
3           this subsection for administrative costs  
4           under this subparagraph, which funds shall  
5           be used in addition to any other funds  
6           made available for that purpose.

7           “(iv) FEES.—

8           “(I) IN GENERAL.—The Sec-  
9           retary may impose and collect fees to  
10          recover costs associated with special  
11          data or analysis requests relating to  
12          safety naturalistic driving databases  
13          developed under the future of stra-  
14          tegic highway research program.

15          “(II) USE OF FEE AMOUNTS.—

16               “(aa) IN GENERAL.—Any  
17               fees collected under this clause  
18               shall be made available to the  
19               Secretary to carry out this sec-  
20               tion and shall remain available  
21               for expenditure until expended.

22               “(bb) SUPPLEMENT, NOT  
23               SUPPLANT.—Any fee amounts  
24               collected under this clause shall  
25               supplement, but not supplant,

1 amounts made available to the  
2 Secretary to carry out this title.”.

3 (b) CONFORMING AMENDMENT.—The analysis for  
4 chapter 5 of title 23, United States Code, is amended by  
5 striking the item relating to section 503 and inserting the  
6 following:

“503. Research and technology development and deployment.”.

7 **SEC. 2204. TRAINING AND EDUCATION.**

8 Section 504 of title 23, United States Code, is  
9 amended—

10 (1) in subsection (a)—

11 (A) in paragraph (2)(A) by inserting “and  
12 the employees of any other applicable Federal  
13 agency” before the semicolon at the end;

14 (B) in paragraph (3)(A)(ii)(V) by striking  
15 “expediting” and inserting “reducing the  
16 amount of time required for”;

17 (C) by striking paragraph (4);

18 (D) by redesignating paragraphs (5)  
19 through (8) as paragraphs (4) through (7), re-  
20 spectively; and

21 (E) in paragraph (7) (as redesignated by  
22 subparagraph (D)) by striking “paragraph (7)”  
23 and inserting “paragraph (6)”;

24 (2) in subsection (b) by striking paragraph (3)  
25 and inserting the following:

1 “(3) FEDERAL SHARE.—

2 “(A) LOCAL TECHNICAL ASSISTANCE CEN-  
3 TERS.—

4 “(i) IN GENERAL.—Subject to sub-  
5 paragraph (B), the Federal share of the  
6 cost of an activity carried out by a local  
7 technical assistance center under para-  
8 graphs (1) and (2) shall be 50 percent.

9 “(ii) NON-FEDERAL SHARE.—The  
10 non-Federal share of the cost of an activity  
11 described in clause (i) may consist of  
12 amounts provided to a recipient under sub-  
13 section (e) or section 505, up to 100 per-  
14 cent of the non-Federal share.

15 “(B) TRIBAL TECHNICAL ASSISTANCE  
16 CENTERS.—The Federal share of the cost of an  
17 activity carried out by a tribal technical assist-  
18 ance center under paragraph (2)(D)(ii) shall be  
19 100 percent.”;

20 (3) in subsection (c)(2)—

21 (A) by striking “The Secretary” and in-  
22 serting the following:

23 “(A) IN GENERAL.—The Secretary”;

1 (B) in subparagraph (A) (as designated by  
2 subparagraph (A)) by striking “. The program”  
3 and inserting “, which program”; and

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

5 “(B) USE OF AMOUNTS.—Amounts pro-  
6 vided to institutions of higher education to  
7 carry out this paragraph shall be used to pro-  
8 vide direct support of student expenses.”;

9 (4) in subsection (e)(1)—

10 (A) in the matter preceding subparagraph  
11 (A) by striking “sections 104(b)(1), 104(b)(2),  
12 104(b)(3), 104(b)(4), and 144(e)” and insert-  
13 ing “paragraphs (1) through (4) of section  
14 104(b)”;

15 (B) in subparagraph (D) by striking “and”  
16 at the end;

17 (C) in subparagraph (E) by striking the  
18 period and inserting a semicolon; and

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

20 “(F) meetings of transportation profes-  
21 sionals that include education and professional  
22 development activities;

23 “(G) activities carried out by the National  
24 Highway Institute under subsection (a); and

1           “(H) local technical assistance programs  
2           under subsection (b).”;

3           (5) in subsection (f) in the heading, by striking  
4           “PILOT”;

5           (6) in subsection (g)(4)(F) by striking “excel-  
6           lence” and inserting “stewardship”; and

7           (7) by adding at the end the following:

8           “(h) REGIONAL SURFACE WORKFORCE DEVELOP-  
9           MENT CENTERS.—

10           “(1) IN GENERAL.—The Secretary may make  
11           grants under this section to nonprofit institutions of  
12           higher education to establish and operate 5 regional  
13           workforce development centers.

14           “(2) USE OF AMOUNTS.—

15           “(A) IN GENERAL.—Amounts made avail-  
16           able under this subsection shall be used by a re-  
17           cipient to identify, promote, and advance pro-  
18           grams and activities that provide for a skilled,  
19           technically competent surface transportation  
20           workforce, including—

21                   “(i) programs carried out through ele-  
22                   mentary and secondary schools;

23                   “(ii) programs carried out through  
24                   community colleges; and

1           “(iii) technical training and appren-  
2           ticeship programs that are carried out in  
3           coordination with labor organizations, em-  
4           ployers, and other relevant stakeholders.

5           “(B) OPTIONAL USE.—Amounts made  
6           available under this subsection may be used to  
7           support professional development activities for  
8           inservice transportation workers.

9           “(3) CONSULTATION.—In carrying out this sub-  
10          section, each regional workforce development center  
11          shall consult with stakeholders in the education and  
12          transportation communities, including organizations  
13          representing the interests of—

14                 “(A) elementary and secondary schools;

15                 “(B) institutions of higher education;

16                 “(C) inservice transportation workers; and

17                 “(D) transportation professionals.

18          “(i) CENTERS FOR SURFACE TRANSPORTATION EX-  
19          CELLENCE.—

20                 “(1) IN GENERAL.—The Secretary may make  
21                 grants under this section to establish and maintain  
22                 centers for surface transportation excellence.

23                 “(2) GOALS.—The goals of a center referred to  
24                 in paragraph (1) shall be to promote and support  
25                 strategic national surface transportation programs

1 and activities relating to the work of State depart-  
2 ments of transportation in the areas of environment,  
3 surface transportation safety, rural safety, and  
4 project finance.”.

5 **SEC. 2205. STATE PLANNING AND RESEARCH.**

6 Section 505 of title 23, United States Code, is  
7 amended—

8 (1) in subsection (a)—

9 (A) in the matter preceding paragraph (1)  
10 by striking “section 104 (other than sections  
11 104(f) and 104(h)) and under section 144” and  
12 inserting “paragraphs (1) through (5) of sec-  
13 tion 104(b)”; and

14 (B) in paragraph (3) by striking “under  
15 section 303” and inserting “, plans, and proc-  
16 esses under sections 119, 148, 149, and 167”;

17 (2) in subsection (b)—

18 (A) in paragraph (1) by striking “25” and  
19 inserting “24”; and

20 (B) in paragraph (2) by striking “75 per-  
21 cent of the funds described in paragraph (1)”  
22 and inserting “70 percent of the funds de-  
23 scribed in subsection (a)”;

24 (3) by redesignating subsections (c) and (d) as  
25 subsections (d) and (e), respectively;

1           (4) by inserting after subsection (b) the fol-  
2           lowing:

3           “(c) IMPLEMENTATION OF FUTURE STRATEGIC  
4 HIGHWAY RESEARCH PROGRAM FINDINGS AND RE-  
5 SULTS.—

6           “(1) Not less than 6 percent of the funds sub-  
7           ject to subsection (a) that are apportioned to a State  
8           for a fiscal year shall be made available to the Sec-  
9           retary to carry out section 503(c)(2)(C).

10           “(2) Funds expended under paragraph (1) shall  
11           not be considered to be part of the extramural budg-  
12           et of the agency for the purpose of section 9 of the  
13           Small Business Act (15 U.S.C. 638).”; and

14           (5) in paragraph (e) (as so redesignated) by  
15           striking “section 118(b)(2)” and inserting “section  
16           118(b)”.

17 **SEC. 2206. INTERNATIONAL HIGHWAY TRANSPORTATION**  
18 **PROGRAM.**

19           Section 506 of title 23, United States Code, is re-  
20           pealed.

21 **SEC. 2207. SURFACE TRANSPORTATION ENVIRONMENTAL**  
22 **COOPERATIVE RESEARCH PROGRAM.**

23           Section 507 of title 23, United States Code, is re-  
24           pealed.



1 **SEC. 2208. NATIONAL COOPERATIVE FREIGHT RESEARCH.**

2 Section 509(d) of title 23, United States Code, is  
3 amended by adding at the end the following:

4 “(6) COORDINATION OF COOPERATIVE RE-  
5 SEARCH.—The National Academy of Sciences shall  
6 coordinate research agendas, research project selec-  
7 tions, and competitions across all transportation-re-  
8 lated cooperative research programs carried out by  
9 the National Academy of Sciences to ensure pro-  
10 gram efficiency, effectiveness, and the dissemination  
11 of research findings.”.

12 **SEC. 2209. UNIVERSITY TRANSPORTATION CENTERS PRO-**  
13 **GRAM.**

14 (a) IN GENERAL.—Section 5505 of title 49, United  
15 States Code, is amended to read as follows:

16 **“§ 5505. University transportation centers program**

17 “(a) UNIVERSITY TRANSPORTATION CENTERS PRO-  
18 GRAM.—

19 “(1) ESTABLISHMENT AND OPERATION.—The  
20 Secretary shall make grants under this section to eli-  
21 gible nonprofit institutions of higher education to es-  
22 tablish and operate university transportation cen-  
23 ters.

24 “(2) ROLE OF CENTERS.—The role of each uni-  
25 versity transportation center referred to in para-  
26 graph (1) shall be—

1           “(A) to advance transportation expertise  
2           and technology in the varied disciplines that  
3           comprise the field of transportation through  
4           education, research, and technology transfer ac-  
5           tivities;

6           “(B) to provide for a critical transpor-  
7           tation knowledge base outside of the Depart-  
8           ment of Transportation; and

9           “(C) to address critical workforce needs  
10          and educate the next generation of transpor-  
11          tation leaders.

12       “(b) COMPETITIVE SELECTION PROCESS.—

13           “(1) APPLICATIONS.—To receive a grant under  
14          this section, a nonprofit institution of higher edu-  
15          cation shall submit to the Secretary an application  
16          that is in such form and contains such information  
17          as the Secretary may require.

18           “(2) GENERAL SELECTION CRITERIA.—

19           “(A) IN GENERAL.—Except as otherwise  
20          provided by this section, the Secretary shall  
21          award grants under this section in nonexclusive  
22          candidate topic areas established by the Sec-  
23          retary that address the research priorities iden-  
24          tified in section 503 of title 23.

1           “(B) CRITERIA.—The Secretary, in con-  
2           junction with the Administrators of the Federal  
3           Highway Administration and the Federal Tran-  
4           sit Administration, shall select each recipient of  
5           a grant under this section through a competi-  
6           tive process based on the assessment of the Sec-  
7           retary relating to—

8                   “(i) the demonstrated ability of the  
9                   recipient to address each specific topic area  
10                  described in the research and strategic  
11                  plans of the recipient;

12                  “(ii) the demonstrated research, tech-  
13                  nology transfer, and education resources  
14                  available to the recipient to carry out this  
15                  section;

16                  “(iii) the ability of the recipient to  
17                  provide leadership in solving immediate  
18                  and long-range national and regional  
19                  transportation problems;

20                  “(iv) the ability of the recipient to  
21                  carry out research, education, and tech-  
22                  nology transfer activities that are  
23                  multimodal and multidisciplinary in scope;

24                  “(v) the demonstrated commitment of  
25                  the recipient to carry out transportation

1 workforce development programs  
2 through—  
3 “(I) degree-granting programs;  
4 “(II) training seminars for prac-  
5 ticing professionals;  
6 “(III) outreach activities to at-  
7 tract new entrants into the transpor-  
8 tation field, including women, minori-  
9 ties, and persons from disadvantaged  
10 communities; and  
11 “(IV) primary and secondary  
12 school transportation workforce out-  
13 reach;  
14 “(vi) the demonstrated ability of the  
15 recipient to disseminate results and spur  
16 the implementation of transportation re-  
17 search and education programs through  
18 national or statewide continuing education  
19 programs;  
20 “(vii) the demonstrated commitment  
21 of the recipient to the use of peer review  
22 principles and other research best practices  
23 in the selection, management, and dissemi-  
24 nation of research projects;

1           “(viii) the strategic plan submitted by  
2           the recipient describing the proposed re-  
3           search to be carried out by the recipient  
4           and the performance metrics to be used in  
5           assessing the performance of the recipient  
6           in meeting the stated research, technology  
7           transfer, education, and outreach goals;  
8           and

9           “(ix) the ability of the recipient to im-  
10          plement the proposed program in a cost-ef-  
11          ficient manner, such as through cost shar-  
12          ing and overall reduced overhead, facilities,  
13          and administrative costs.

14       “(c) GRANTS.—

15           “(1) IN GENERAL.—Not later than 1 year after  
16          the date of enactment of the MAP-21, the Sec-  
17          retary, in conjunction with the Administrators of the  
18          Federal Highway Administration and the Federal  
19          Transit Administration, shall select grant recipients  
20          under subsection (b) and make grant amounts avail-  
21          able to the selected recipients.

22           “(2) TIER 1 UNIVERSITY TRANSPORTATION  
23          CENTERS.—

24           “(A) IN GENERAL.—For each of fiscal  
25          years 2012 and 2013 and subject to subpara-

1 graph (B), the Secretary shall provide grants to  
2 not more than 15 recipients that the Secretary  
3 determines best meet the criteria described in  
4 subsection (b)(2).

5 “(B) RESTRICTIONS.—

6 “(i) IN GENERAL.—For each fiscal  
7 year, a grant made available under this  
8 paragraph shall not exceed \$3,500,000 per  
9 recipient.

10 “(ii) FOCUSED RESEARCH.—At least  
11 2 of the recipients awarded a grant under  
12 this paragraph shall have expertise in, and  
13 focus research on, public transportation  
14 issues.

15 “(C) MATCHING REQUIREMENT.—

16 “(i) IN GENERAL.—As a condition of  
17 receiving a grant under this paragraph, a  
18 grant recipient shall match 100 percent of  
19 the amounts made available under the  
20 grant.

21 “(ii) SOURCES.—The matching  
22 amounts referred to in clause (i) may in-  
23 clude amounts made available to the recipi-  
24 ent under—

1                   “(I) section 504(b) or 505 of title  
2                   23; and

3                   “(II) subject to prior approval by  
4                   the Secretary, a transportation-related  
5                   grant from the National Science  
6                   Foundation.

7                   “(3) TIER 2 UNIVERSITY TRANSPORTATION  
8                   CENTERS.—

9                   “(A) IN GENERAL.—For each of fiscal  
10                  years 2012 and 2013, the Secretary shall pro-  
11                  vide grants of not more than \$2,000,000 each  
12                  to not more than 20 recipients to carry out this  
13                  section.

14                  “(B) RESTRICTION.—A grant recipient  
15                  under paragraph (2) shall not be eligible to re-  
16                  ceive a grant under this paragraph.

17                  “(C) MATCHING REQUIREMENT.—

18                  “(i) IN GENERAL.—As a condition of  
19                  receiving a grant under this paragraph, a  
20                  grant recipient shall match 50 percent of  
21                  the amounts made available under the  
22                  grant.

23                  “(ii) SOURCES.—The matching  
24                  amounts referred to in clause (i) may in-

1           clude amounts made available to the recipi-  
2           ent under—

3                   “(I) section 504(b) or 505 of title  
4                   23; and

5                   “(II) subject to prior approval by  
6                   the Secretary, a transportation-related  
7                   grant from the National Science  
8                   Foundation.

9                   “(D) FOCUSED RESEARCH.—In awarding  
10                  grants under this paragraph, consideration shall  
11                  be given to minority institutions, as defined by  
12                  section 365(3) of the Higher Education Act (20  
13                  U.S.C. Sec. 1067k), or consortia that include  
14                  such institutions that have demonstrated an  
15                  ability in transportation-related research and  
16                  for which the requirements of subparagraph  
17                  (c)(3)(C) shall not apply upon demonstration of  
18                  financial hardship by the applicant institution.

19               “(d) PROGRAM COORDINATION.—

20                   “(1) IN GENERAL.—The Secretary shall—

21                   “(A) coordinate the research, education,  
22                   and technology transfer activities carried out by  
23                   grant recipients under this section; and



1           “(B) disseminate the results of that re-  
2           search through the establishment and operation  
3           of an information clearinghouse.

4           “(2) ANNUAL REVIEW AND EVALUATION.—Not  
5           less frequently than annually, and consistent with  
6           the plan developed under section 508 of title 23, the  
7           Secretary shall review and evaluate the programs  
8           carried out under this section by grant recipients.

9           “(3) PROGRAM EVALUATION AND OVER-  
10          SIGHT.—For each of fiscal years 2012 and 2013, the  
11          Secretary shall expend not more than 1½ percent of  
12          the amounts made available to the Secretary to  
13          carry out this section for any coordination, evalua-  
14          tion, and oversight activities of the Secretary under  
15          this section and section 5506.

16          “(e) LIMITATION ON AVAILABILITY OF AMOUNTS.—  
17          Amounts made available to the Secretary to carry out this  
18          section shall remain available for obligation by the Sec-  
19          retary for a period of 3 years after the last day of the  
20          fiscal year for which the amounts are appropriated.

21          “(f) INFORMATION COLLECTION.—Any survey, ques-  
22          tionnaire, or interview that the Secretary determines to  
23          be necessary to carry out reporting requirements relating  
24          to any program assessment or evaluation activity under

1 this section, including customer satisfaction assessments,  
2 shall not be subject to chapter 35 of title 44.”.

3 (b) CONFORMING AMENDMENT.—The analysis for  
4 chapter 55 of title 49, United States Code, is amended  
5 by striking the item relating to section 5505 and inserting  
6 the following:

“Sec. 5505. University transportation centers program.”.

7 **SEC. 2210. BUREAU OF TRANSPORTATION STATISTICS.**

8 (a) IN GENERAL.—Subtitle III of title 49, United  
9 States Code, is amended by adding at the end the fol-  
10 lowing:

11 **“CHAPTER 63—BUREAU OF**  
12 **TRANSPORTATION STATISTICS**

“6301. Definitions.

“6302. Bureau of Transportation Statistics.

“6303. Intermodal transportation database.

“6304. National transportation library.

“6305. Advisory council on transportation statistics.

“6306. Transportation statistical collection, analysis, and dissemination.

“6307. Furnishing of information, data, or reports by Federal agencies.

“6308. Proceeds of data product sales.

“6309. Information collection.

“6310. National transportation atlas database.

“6311. Limitations on statutory construction.

“6312. Research and development grants.

“6313. Transportation statistics annual report.

“6314. Mandatory response authority for freight data collection.

13 **“§ 6301. Definitions.**

14 “In this chapter, the following definitions apply:

15 “(1) BUREAU.—The term ‘Bureau’ means the  
16 Bureau of Transportation Statistics established by  
17 section 6302(a).

1           “(2) DEPARTMENT.—The term ‘Department’  
2 means the Department of Transportation.

3           “(3) DIRECTOR.—The term ‘Director’ means  
4 the Director of the Bureau.

5           “(4) LIBRARY.—The term ‘Library’ means the  
6 National Transportation Library established by sec-  
7 tion 6304(a).

8           “(5) SECRETARY.—The term ‘Secretary’ means  
9 the Secretary of Transportation.

10 **“§ 6302. Bureau of Transportation Statistics.**

11           “(a) ESTABLISHMENT.—There is established in the  
12 Research and Innovative Technology Administration the  
13 Bureau of Transportation Statistics.

14           “(b) DIRECTOR.—

15           “(1) APPOINTMENT.—The Bureau shall be  
16 headed by a Director, who shall be appointed in the  
17 competitive service by the Secretary.

18           “(2) QUALIFICATIONS.—The Director shall be  
19 appointed from among individuals who are qualified  
20 to serve as the Director by virtue of training and ex-  
21 perience in the collection, analysis, and use of trans-  
22 portation statistics.

23           “(3) DUTIES.—

24           “(A) IN GENERAL.—The Director shall—

1 “(i) serve as the senior advisor to the  
2 Secretary on data and statistics; and

3 “(ii) be responsible for carrying out  
4 the duties described in subparagraph (B).

5 “(B) DUTIES.—The Director shall—

6 “(i) ensure that the statistics com-  
7 piled under clause (vi) are designed to sup-  
8 port transportation decisionmaking by—

9 “(I) the Federal Government;

10 “(II) State and local govern-  
11 ments;

12 “(III) metropolitan planning or-  
13 ganizations;

14 “(IV) transportation-related asso-  
15 ciations;

16 “(V) the private sector, including  
17 the freight community; and

18 “(VI) the public;

19 “(ii) establish on behalf of the Sec-  
20 retary a program—

21 “(I) to effectively integrate safety  
22 data across modes; and

23 “(II) to address gaps in existing  
24 Department safety data programs;

1                   “(iii) work with the operating admin-  
2                   istrations of the Department—

3                   “(I) to establish and implement  
4                   the data programs of the Bureau; and

5                   “(II) to improve the coordination  
6                   of information collection efforts with  
7                   other Federal agencies;

8                   “(iv) evaluate and update as nec-  
9                   essary surveys and data collection methods  
10                  of the Department on a continual basis to  
11                  improve the accuracy and utility of trans-  
12                  portation statistics;

13                  “(v) encourage the standardization of  
14                  data, data collection methods, and data  
15                  management and storage technologies for  
16                  data collected by—

17                         “(I) the Bureau;

18                         “(II) the operating administra-  
19                         tions of the Department;

20                         “(III) State and local govern-  
21                         ments;

22                         “(IV) metropolitan planning or-  
23                         ganizations; and

24                         “(V) private sector entities;

1           “(vi) collect, compile, analyze, and  
2           publish a comprehensive set of transpor-  
3           tation statistics on the performance and  
4           impacts of the national transportation sys-  
5           tem, including statistics on—

6                   “(I) transportation safety across  
7                   all modes and intermodally;

8                   “(II) the state of good repair of  
9                   United States transportation infra-  
10                  structure;

11                  “(III) the extent, connectivity,  
12                  and condition of the transportation  
13                  system, building on the national  
14                  transportation atlas database devel-  
15                  oped under section 6310;

16                  “(IV) economic efficiency across  
17                  the entire transportation sector;

18                  “(V) the effects of the transpor-  
19                  tation system on global and domestic  
20                  economic competitiveness;

21                  “(VI) demographic, economic,  
22                  and other variables influencing travel  
23                  behavior, including choice of transpor-  
24                  tation mode and goods movement;

1                   “(VII)        transportation-related  
2                   variables that influence the domestic  
3                   economy and global competitiveness;

4                   “(VIII) economic costs and im-  
5                   pacts for passenger travel and freight  
6                   movement;

7                   “(IX) intermodal and multimodal  
8                   passenger movement;

9                   “(X) intermodal and multimodal  
10                  freight movement; and

11                  “(XI) consequences of transpor-  
12                  tation for the human and natural en-  
13                  vironment;

14                  “(vii) build and disseminate the trans-  
15                  portation layer of the National Spatial  
16                  Data Infrastructure developed under Exec-  
17                  utive Order 12906 (59 Fed. Reg. 17671)  
18                  (or a successor Executive Order), including  
19                  by coordinating the development of trans-  
20                  portation geospatial data standards, com-  
21                  piling intermodal geospatial data, and col-  
22                  lecting geospatial data that is not being  
23                  collected by other entities;

24                  “(viii) issue guidelines for the collec-  
25                  tion of information by the Department

1 that the Director determines necessary to  
2 develop transportation statistics and carry  
3 out modeling, economic assessment, and  
4 program assessment activities to ensure  
5 that the information is accurate, reliable,  
6 relevant, uniform, and in a form that per-  
7 mits systematic analysis by the Depart-  
8 ment;

9 “(ix) review and report to the Sec-  
10 retary on the sources and reliability of—

11 “(I) the statistics proposed by  
12 the heads of the operating administra-  
13 tions of the Department to measure  
14 outputs and outcomes as required  
15 under the Government Performance  
16 and Results Act of 1993 (Public Law  
17 103–62;107 Stat. 285); and

18 “(II) at the request of the Sec-  
19 retary, any other data collected or sta-  
20 tistical information published by the  
21 heads of the operating administrations  
22 of the Department; and

23 “(x) ensure that the statistics pub-  
24 lished under this section are readily acces-  
25 sible to the public.



1       “(c) ACCESS TO FEDERAL DATA.—In carrying out  
2 subsection (b)(3)(B)(ii), the Director shall be given access  
3 to all safety data that the Director determines necessary  
4 to carry out that subsection that is held by the Depart-  
5 ment or any other Federal agency.

6       **“§ 6303. Intermodal transportation database**

7       “(a) IN GENERAL.—In consultation with the Under  
8 Secretary Transportation for Policy, the Assistant Secre-  
9 taries of the Department, and the heads of the operating  
10 administrations of the Department, the Director shall es-  
11 tablish and maintain a transportation database for all  
12 modes of transportation.

13       “(b) USE.—The database shall be suitable for anal-  
14 yses carried out by the Federal Government, the States,  
15 and metropolitan planning organizations.

16       “(c) CONTENTS.—The database shall include—

17               “(1) information on the volumes and patterns  
18 of movement of goods, including local, interregional,  
19 and international movement, by all modes of trans-  
20 portation, intermodal combination, and relevant clas-  
21 sification;

22               “(2) information on the volumes and patterns  
23 of movement of people, including local, interregional,  
24 and international movements, by all modes of trans-

1 portation (including bicycle and pedestrian modes),  
2 intermodal combination, and relevant classification;

3 “(3) information on the location and  
4 connectivity of transportation facilities and services;  
5 and

6 “(4) a national accounting of expenditures and  
7 capital stocks on each mode of transportation and  
8 intermodal combination.

9 **“§ 6304. National transportation library**

10 “(a) PURPOSE AND ESTABLISHMENT.—To support  
11 the information management and decisionmaking needs of  
12 transportation officials at the Federal, State, and local lev-  
13 els, there is established in the Bureau of Transportation  
14 Statistics a National Transportation Library that shall—

15 “(1) be headed by an individual who is highly  
16 qualified in library and information science;

17 “(2) acquire, preserve, and manage transpor-  
18 tation information and information products and  
19 services for use by the Department, other Federal  
20 agencies, and the general public;

21 “(3) provide reference and research assistance;

22 “(4) serve as a central depository for research  
23 results and technical publications of the Depart-  
24 ment;

1           “(5) provide a central clearinghouse for trans-  
2           portation data and information of the Federal Gov-  
3           ernment;

4           “(6) serve as coordinator and policy lead for  
5           transportation information access;

6           “(7) provide transportation information and in-  
7           formation products and services to—

8                   “(A) the Department;

9                   “(B) other Federal agencies;

10                  “(C) public and private organizations; and

11                  “(D) individuals, within the United States  
12           as well as internationally;

13           “(8) coordinate efforts among, and cooperate  
14           with, transportation libraries, information providers,  
15           and technical assistance centers, with the goal of de-  
16           veloping a comprehensive transportation information  
17           and knowledge network that supports the activities  
18           described in section 6302(b)(3)(B); and

19           “(9) engage in such other activities as the Di-  
20           rector determines to be necessary and as the re-  
21           sources of the Library permit.

22           “(b) ACCESS.—The Director shall publicize, facili-  
23           tate, and promote access to the information products and  
24           services described in subsection (a), with the goal of im-  
25           proving the ability of the transportation community to

1 share information and the ability of the Director to make  
2 statistics and other information readily accessible as re-  
3 quired under section 6302(b)(3)(B)(x).

4 “(c) AGREEMENTS.—

5 “(1) IN GENERAL.—To carry out this section,  
6 the Director may enter into agreements with, pro-  
7 vide grants to, and receive amounts from, any—

8 “(A) State or local government;

9 “(B) organization;

10 “(C) business; or

11 “(D) individual.

12 “(2) CONTRACTS, GRANTS, AND AGREE-  
13 MENTS.—The Library may initiate and support spe-  
14 cific information and data management, access, and  
15 exchange activities relating to the strategic goals of  
16 the Department, knowledge networking, and na-  
17 tional and international cooperation, by entering into  
18 contracts or other agreements or providing grants.

19 “(3) AMOUNTS.—Any amounts received by the  
20 Library as payment for library products and services  
21 or other activities shall be made available to the Di-  
22 rector to carry out this section and remain available  
23 until expended.

1 **“§ 6305. Advisory council on transportation statistics**

2 “(a) IN GENERAL.—The Director shall establish and  
3 consult with an advisory council on transportation statis-  
4 tics.

5 “(b) FUNCTION.—The function of the advisory coun-  
6 cil established under this subsection is to advise the Direc-  
7 tor on—

8 “(1) the quality, reliability, consistency, objec-  
9 tivity, and relevance of transportation statistics and  
10 analyses collected, supported, or disseminated by the  
11 Bureau and the Department; and

12 “(2) methods to encourage cooperation and  
13 interoperability of transportation data collected by  
14 the Bureau, the operating administrations of the De-  
15 partment, States, local governments, metropolitan  
16 planning organizations, and private sector entities.

17 “(c) MEMBERSHIP.—The advisory council shall be  
18 composed of not fewer than 9 and not more than 11 mem-  
19 bers appointed by the Director, who shall not be officers  
20 or employees of the United States.

21 “(d) TERMS OF APPOINTMENT.—

22 “(1) IN GENERAL.—Except as provided in para-  
23 graph (2), members of the advisory council shall be  
24 appointed to staggered terms not to exceed 3 years.

25 “(2) ADDITIONAL TERMS.—A member may be  
26 renominated for 1 additional 3-year term.

1           “(3) PREVIOUS MEMBERS.—A member serving  
2           on an advisory council on transportation statistics  
3           on the day before the date of enactment of the  
4           MAP-21 shall serve until the end of the appointed  
5           term of the member.

6           “(e) APPLICABILITY OF FEDERAL ADVISORY COM-  
7           MITTEE ACT.—The Federal Advisory Committee Act (5  
8           U.S.C. App.) shall apply to the advisory council estab-  
9           lished under this section, except that section 14 of that  
10          Act shall not apply.

11        **“§ 6306. Transportation statistical collection, anal-**  
12                               **ysis, and dissemination**

13          “To ensure that all transportation statistical collec-  
14          tion, analysis, and dissemination is carried out in a coordi-  
15          nated manner, the Director may—

16               “(1) use the services, equipment, records, per-  
17               sonnel, information, and facilities of other Federal  
18               agencies, or State, local, and private agencies and  
19               instrumentalities, subject to the conditions that the  
20               applicable agency or instrumentality consents to that  
21               use;

22               “(2) enter into agreements with the agencies  
23               and instrumentalities described in paragraph (1) for  
24               purposes of data collection and analysis;

1           “(3) confer and cooperate with foreign govern-  
2           ments, international organizations, and State, mu-  
3           nicipal, and other local agencies;

4           “(4) request such information, data, and re-  
5           ports from any Federal agency as the Director de-  
6           termines necessary to carry out this chapter;

7           “(5) encourage replication, coordination, and  
8           sharing of information among transportation agen-  
9           cies regarding information systems, information pol-  
10          icy, and data; and

11          “(6) confer and cooperate with Federal statis-  
12          tical agencies as the Director determines necessary  
13          to carry out this chapter, including by entering into  
14          cooperative data sharing agreements in conformity  
15          with all laws and regulations applicable to the disclo-  
16          sure and use of data.

17 **“§ 6307. Furnishing of information, data, or reports**  
18 **by Federal agencies**

19          “(a) IN GENERAL.—Except as provided in subsection  
20 (b), a Federal agency requested to furnish information,  
21 data, or reports by the Director under section  
22 6302(b)(3)(B) shall provide the information to the Direc-  
23 tor.

24          “(b) PROHIBITION ON CERTAIN DISCLOSURES.—

1           “(1) IN GENERAL.—An officer, employee, or  
2 contractor of the Bureau may not—

3           “(A) make any disclosure in which the  
4 data provided by an individual or organization  
5 under section 6302(b)(3)(B) can be identified;

6           “(B) use the information provided under  
7 section 6302(b)(3)(B) for a nonstatistical pur-  
8 pose; or

9           “(C) permit anyone other than an indi-  
10 vidual authorized by the Director to examine  
11 any individual report provided under section  
12 6302(b)(3)(B).

13           “(2) COPIES OF REPORTS.—

14           “(A) IN GENERAL.—No department, bu-  
15 reau, agency, officer, or employee of the United  
16 States (except the Director in carrying out this  
17 chapter) may require, for any reason, a copy of  
18 any report that has been filed under section  
19 6302(b)(3)(B) with the Bureau or retained by  
20 an individual respondent.

21           “(B) LIMITATION ON JUDICIAL PRO-  
22 CEEDINGS.—A copy of a report described in  
23 subparagraph (A) that has been retained by an  
24 individual respondent or filed with the Bureau



1 or any of the employees, contractors, or agents  
2 of the Bureau—

3 “(i) shall be immune from legal proc-  
4 ess; and

5 “(ii) shall not, without the consent of  
6 the individual concerned, be admitted as  
7 evidence or used for any purpose in any  
8 action, suit, or other judicial or adminis-  
9 trative proceedings.

10 “(C) APPLICABILITY.—This paragraph  
11 shall apply only to reports that permit informa-  
12 tion concerning an individual or organization to  
13 be reasonably determined by direct or indirect  
14 means.

15 “(3) INFORMING RESPONDENT OF USE OF  
16 DATA.—If the Bureau is authorized by statute to  
17 collect data or information for a nonstatistical pur-  
18 pose, the Director shall clearly distinguish the collec-  
19 tion of the data or information, by rule and on the  
20 collection instrument, in a manner that informs the  
21 respondent who is requested or required to supply  
22 the data or information of the nonstatistical pur-  
23 pose.

24 “(c) TRANSPORTATION AND TRANSPORTATION-RE-  
25 LATED DATA ACCESS.—Except as expressly prohibited by

1 law, the Director shall have access to any transportation  
2 and transportation-related information in the possession  
3 of any Federal agency.

4 **“§ 6308. Proceeds of data product sales**

5 “Notwithstanding section 3302 of title 31, amounts  
6 received by the Bureau from the sale of data products for  
7 necessary expenses incurred may be credited to the High-  
8 way Trust Fund (other than the Mass Transit Account)  
9 for the purpose of reimbursing the Bureau for those ex-  
10 penses.

11 **“§ 6309. Information collection**

12 “As the head of an independent Federal statistical  
13 agency, the Director may consult directly with the Office  
14 of Management and Budget concerning any survey, ques-  
15 tionnaire, or interview that the Director considers nec-  
16 essary to carry out the statistical responsibilities of this  
17 chapter.

18 **“§ 6310. National transportation atlas database**

19 “(a) IN GENERAL.—The Director shall develop and  
20 maintain a national transportation atlas database that is  
21 comprised of geospatial databases that depict—

22 “(1) transportation networks;

23 “(2) flows of people, goods, vehicles, and craft  
24 over the transportation networks; and

1           “(3) social, economic, and environmental condi-  
2           tions that affect or are affected by the transpor-  
3           tation networks.

4           “(b) INTERMODAL NETWORK ANALYSIS.—The data-  
5           bases referred to in subsection (a) shall be capable of sup-  
6           porting intermodal network analysis.

7           **“§ 6311. Limitations on statutory construction**

8           “Nothing in this chapter—

9           “(1) authorizes the Bureau to require any other  
10          Federal agency to collect data; or

11          “(2) alters or diminishes the authority of any  
12          other officer of the Department to collect and dis-  
13          seminate data independently.

14          **“§ 6312. Research and development grants**

15          “‘The Secretary may make grants to, or enter into  
16          cooperative agreements or contracts with, public and non-  
17          profit private entities (including State transportation de-  
18          partments, metropolitan planning organizations, and insti-  
19          tutions of higher education) for—

20                 “(1) investigation of the subjects described in  
21                 section 6302(b)(3)(B)(vi);

22                 “(2) research and development of new methods  
23                 of data collection, standardization, management, in-  
24                 tegration, dissemination, interpretation, and anal-  
25                 ysis;

1           “(3) demonstration programs by States, local  
2 governments, and metropolitan planning organiza-  
3 tions to coordinate data collection, reporting, man-  
4 agement, storage, and archiving to simplify data  
5 comparisons across jurisdictions;

6           “(4) development of electronic clearinghouses of  
7 transportation data and related information, as part  
8 of the Library; and

9           “(5) development and improvement of methods  
10 for sharing geographic data, in support of the data-  
11 base under section 6310 and the National Spatial  
12 Data Infrastructure developed under Executive  
13 Order 12906 (59 Fed. Reg. 17671) (or a successor  
14 Executive Order).

15 **“§ 6313. Transportation statistics annual report**

16           “The Director shall submit to the President and Con-  
17 gress a transportation statistics annual report, which shall  
18 include—

19           “(1) information on the progress of the Direc-  
20 tor in carrying out the duties described in section  
21 6302(b)(3)(B);

22           “(2) documentation of the methods used to ob-  
23 tain and ensure the quality of the statistics pre-  
24 sented in the report; and

1           “(3) any recommendations of the Director for  
2           improving transportation statistical information.

3   **“§ 6314. Mandatory response authority for freight**  
4           **data collection.**

5           “(a) IN GENERAL.—An owner, official, agent, person  
6 in charge, or assistant to the person in charge of any  
7 freight corporation, company, business, institution, estab-  
8 lishment, or organization shall be fined in accordance with  
9 subsection (b) if that individual neglects or refuses, when  
10 requested by the Director or other authorized officer, em-  
11 ployee, or contractor of the Bureau to submit data under  
12 section 6302(b)(3)(B)—

13           “(1) to answer completely and correctly to the  
14           best knowledge of that individual all questions relat-  
15           ing to the corporation, company, business, institu-  
16           tion, establishment, or other organization; or

17           “(2) to make available records or statistics in  
18           the official custody of the individual.

19           “(b) FINES.—

20           “(1) IN GENERAL.—Subject to paragraph (2),  
21           an individual described in subsection (a) shall be  
22           fined not more than \$500.

23           “(2) WILLFUL ACTIONS.—If an individual will-  
24           fully gives a false answer to a question described in

1 subsection (a)(1), the individual shall be fined not  
2 more than \$10,000.”.

3 (b) RULES OF CONSTRUCTION.—If the provisions of  
4 section 111 of title 49, United States Code, are trans-  
5 ferred to chapter 63 of that title, the following rules of  
6 construction apply:

7 (1) For purposes of determining whether 1 pro-  
8 vision of law supersedes another based on enactment  
9 later in time, a chapter 63 provision is deemed to  
10 have been enacted on the date of enactment of the  
11 corresponding section 111 provision.

12 (2) A reference to a section 111 provision, in-  
13 cluding a reference in a regulation, order, or other  
14 law, is deemed to refer to the corresponding chapter  
15 63 provision.

16 (3) A regulation, order, or other administrative  
17 action in effect under a section 111 provision con-  
18 tinues in effect under the corresponding chapter 63  
19 provision.

20 (4) An action taken or an offense committed  
21 under a section 111 provision is deemed to have  
22 been taken or committed under the corresponding  
23 chapter 63 provision.

24 (c) CONFORMING AMENDMENTS.—

1           (1) REPEAL.—Section 111 of title 49, United  
 2 States Code, is repealed, and the item relating to  
 3 section 111 in the analysis of chapter 1 of that title  
 4 is deleted.

5           (2) ANALYSIS OF SUBTITLE III.—The analysis  
 6 for subtitle III of title 49, United States Code, is  
 7 amended by inserting after the items for chapter 61  
 8 the following:

“Chapter 63. Bureau of Transportation Statistics ..... ”.

9 **SEC. 2211. ADMINISTRATIVE AUTHORITY.**

10          Section 112 of title 49, United States Code, is  
 11 amended by adding at the end the following:

12          “(f) PROMOTIONAL AUTHORITY.—Amounts author-  
 13 ized to be appropriated for the administration and oper-  
 14 ation of the Research and Innovative Technology Adminis-  
 15 tration may be used to purchase promotional items of  
 16 nominal value for use by the Administrator of the Re-  
 17 search and Innovative Technology Administration in the  
 18 recruitment of individuals and promotion of the programs  
 19 of the Administration.

20          “(g) PROGRAM EVALUATION AND OVERSIGHT.—For  
 21 each of fiscal years 2012 and 2013, the Administrator  
 22 may expend not more than 1½ percent of the amounts  
 23 authorized to be appropriated for the administration and  
 24 operation of the Research and Innovative Technology Ad-  
 25 ministration to carry out the coordination, evaluation, and

1 oversight of the programs administered by the Administra-  
2 tion.

3 “(h) COLLABORATIVE RESEARCH AND DEVELOP-  
4 MENT.—

5 “(1) IN GENERAL.—To encourage innovative  
6 solutions to multimodal transportation problems and  
7 stimulate the deployment of new technology, the Ad-  
8 ministrator may carry out, on a cost-shared basis,  
9 collaborative research and development with—

10 “(A) non-Federal entities, including State  
11 and local governments, foreign governments, in-  
12 stitutions of higher education, corporations, in-  
13 stitutions, partnerships, sole proprietorships,  
14 and trade associations that are incorporated or  
15 established under the laws of any State;

16 “(B) Federal laboratories; and

17 “(C) other Federal agencies.

18 “(2) COOPERATION, GRANTS, CONTRACTS, AND  
19 AGREEMENTS.—Notwithstanding any other provision  
20 of law, the Administrator may directly initiate con-  
21 tracts, grants, cooperative research and development  
22 agreements (as defined in section 12 of the Steven-  
23 son-Wydler Technology Innovation Act of 1980 (15  
24 U.S.C. 3710a)), and other agreements to fund, and  
25 accept funds from, the Transportation Research



1 Board of the National Research Council of the Na-  
2 tional Academy of Sciences, State departments of  
3 transportation, cities, counties, institutions of higher  
4 education, associations, and the agents of those enti-  
5 ties to carry out joint transportation research and  
6 technology efforts.

7 “(3) FEDERAL SHARE.—

8 “(A) IN GENERAL.—Subject to subpara-  
9 graph (B), the Federal share of the cost of an  
10 activity carried out under paragraph (2) shall  
11 not exceed 50 percent.

12 “(B) EXCEPTION.—If the Secretary deter-  
13 mines that the activity is of substantial public  
14 interest or benefit, the Secretary may approve  
15 a greater Federal share.

16 “(C) NON-FEDERAL SHARE.—All costs di-  
17 rectly incurred by the non-Federal partners, in-  
18 cluding personnel, travel, facility, and hardware  
19 development costs, shall be credited toward the  
20 non-Federal share of the cost of an activity de-  
21 scribed in subparagraph (A).

22 “(4) USE OF TECHNOLOGY.—The research, de-  
23 velopment, or use of a technology under a contract,  
24 grant, cooperative research and development agree-  
25 ment, or other agreement entered into under this

1 subsection, including the terms under which the  
2 technology may be licensed and the resulting royal-  
3 ties may be distributed, shall be subject to the Ste-  
4 venson-Wydler Technology Innovation Act of 1980  
5 (15 U.S.C. 3701 et seq.).

6 “(5) WAIVER OF ADVERTISING REQUIRE-  
7 MENTS.—Section 3709 of the Revised Statutes (41  
8 U.S.C. 5) shall not apply to a contract, grant, or  
9 other agreement entered into under this section.”.

10 **SEC. 2212. TRANSPORTATION RESEARCH AND DEVELOP-**  
11 **MENT STRATEGIC PLANNING.**

12 Section 508(a)(2) of title 23, United States Code, is  
13 amended by striking subparagraph (A) and inserting the  
14 following:

15 “(A) describe the primary purposes of the  
16 transportation research and development pro-  
17 gram, which shall include, at a minimum—

18 “(i) promoting safety;

19 “(ii) reducing congestion and improv-  
20 ing mobility;

21 “(iii) protecting and enhancing the  
22 environment;

23 “(iv) preserving the existing transpor-  
24 tation system;

1 “(v) improving the durability and ex-  
 2 tending the life of transportation infra-  
 3 structure; and

4 “(vi) improving goods movement;”.

## 5 **Subtitle C—Funding**

### 6 **SEC. 2301. USE OF FUNDS FOR ITS ACTIVITIES.**

7 Section 513 of title 23, United States Code, is  
 8 amended to read as follows:

#### 9 **“§ 513. Use of funds for ITS activities.**

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

12 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-  
 13 tity’ means a State or local government, tribal gov-  
 14 ernment, transit agency, public toll authority, metro-  
 15 politan planning organization, other political subdivi-  
 16 sion of a State or local government, or a multistate  
 17 or multijurisdictional group applying through a sin-  
 18 gle lead applicant.

19 “(2) MULTIJURISDICTIONAL GROUP.—The term  
 20 ‘multijurisdictional group’ means a combination of  
 21 State governments, local governments, metropolitan  
 22 planning agencies, transit agencies, or other political  
 23 subdivisions of a State that—

1           “(A) have signed a written agreement to  
2           implement an activity that meets the grant cri-  
3           teria under this section; and

4           “(B) is comprised of at least 2 members,  
5           each of whom is an eligible entity.

6           “(b) PURPOSE.—The purpose of this section is to de-  
7           velop, administer, communicate, and promote the use of  
8           products of research, technology, and technology transfer  
9           programs.

10          “(c) ITS DEPLOYMENT INCENTIVES.—

11           “(1) IN GENERAL.—The Secretary may—

12           “(A) develop and implement incentives to  
13           accelerate deployment of ITS technologies and  
14           services within all funding programs authorized  
15           by the MAP-21; and

16           “(B) for each fiscal year, use amounts  
17           made available to the Secretary to carry out in-  
18           telligent transportation systems outreach, in-  
19           cluding through the use of websites, public rela-  
20           tions, displays, tours, and brochures.

21           “(2) COMPREHENSIVE PLAN.—To carry out  
22           this section, the Secretary shall develop a detailed  
23           and comprehensive plan that addresses the manner  
24           in which incentives may be adopted through the ex-

1 isting deployment activities carried out by surface  
2 transportation modal administrations.

3 “(d) SYSTEM OPERATIONS AND ITS DEPLOYMENT  
4 GRANT PROGRAM.—

5 “(1) ESTABLISHMENT.—The Secretary shall es-  
6 tablish a competitive grant program to accelerate the  
7 deployment, operation, systems management, inter-  
8 modal integration, and interoperability of the ITS  
9 program and ITS-enabled operational strategies—

10 “(A) to measure and improve the perform-  
11 ance of the surface transportation system;

12 “(B) to reduce traffic congestion and the  
13 economic and environmental impacts of traffic  
14 congestion;

15 “(C) to minimize fatalities and injuries;

16 “(D) to enhance mobility of people and  
17 goods;

18 “(E) to improve traveler information and  
19 services; and

20 “(F) to optimize existing roadway capacity.

21 “(2) APPLICATION.—To be considered for a  
22 grant under this subsection, an eligible entity shall  
23 submit an application to the Secretary that in-  
24 cludes—

1           “(A) a plan to deploy and provide for the  
2 long-term operation and maintenance of intel-  
3 ligent transportation systems to improve safety,  
4 efficiency, system performance, and return on  
5 investment, such as—

6                   “(i) real-time integrated traffic, tran-  
7 sit, and multimodal transportation infor-  
8 mation;

9                   “(ii) advanced traffic, freight, park-  
10 ing, and incident management systems;

11                   “(iii) advanced technologies to im-  
12 prove transit and commercial vehicle oper-  
13 ations;

14                   “(iv) synchronized, adaptive, and  
15 transit preferential traffic signals;

16                   “(v) advanced infrastructure condition  
17 assessment technologies; and

18                   “(vi) other technologies to improve  
19 system operations, including ITS applica-  
20 tions necessary for multimodal systems in-  
21 tegration and for achieving performance  
22 goals;

23           “(B) quantifiable system performance im-  
24 provements, including—

1                   “(i) reductions in traffic-related  
2                   crashes, congestion, and costs;

3                   “(ii) optimization of system efficiency;  
4                   and

5                   “(iii) improvement of access to trans-  
6                   portation services;

7                   “(C) quantifiable safety, mobility, and en-  
8                   vironmental benefit projections, including data  
9                   driven estimates of the manner in which the  
10                  project will improve the transportation system  
11                  efficiency and reduce traffic congestion in the  
12                  region;

13                  “(D) a plan for partnering with the private  
14                  sector, including telecommunications industries  
15                  and public service utilities, public agencies (in-  
16                  cluding multimodal and multijurisdictional enti-  
17                  ties), research institutions, organizations rep-  
18                  resenting transportation and technology leaders,  
19                  and other transportation stakeholders;

20                  “(E) a plan to leverage and optimize exist-  
21                  ing local and regional ITS investments; and

22                  “(F) a plan to ensure interoperability of  
23                  deployed technologies with other tolling, traffic  
24                  management, and intelligent transportation sys-  
25                  tems.

1 “(3) SELECTION.—

2 “(A) IN GENERAL.—Not later than 1 year  
3 after the date of enactment of the MAP–21, the  
4 Secretary may provide grants to eligible entities  
5 under this section.

6 “(B) GEOGRAPHIC DIVERSITY.—In award-  
7 ing a grant under this section, the Secretary  
8 shall ensure, to the maximum extent prac-  
9 ticable, that grant recipients represent diverse  
10 geographical areas of the United States, includ-  
11 ing urban, suburban, and rural areas.

12 “(C) NON-FEDERAL SHARE.—In awarding  
13 a grant under the section, the Secretary shall  
14 give priority to grant recipients that dem-  
15 onstrate an ability to contribute a significant  
16 non-Federal share to the cost of carrying out  
17 the project for which the grant is received.

18 “(4) ELIGIBLE USES.—Projects for which  
19 grants awarded under this section may be used in-  
20 clude—

21 “(A) the establishment and implementation  
22 of ITS and ITS-enabled operations strategies  
23 that improve performance in the areas of—

24 “(i) traffic operations;



- 1                   “(ii) emergency response to surface  
2                   transportation incidents;
- 3                   “(iii) incident management;
- 4                   “(iv) transit and commercial vehicle  
5                   operations improvements;
- 6                   “(v) weather event response manage-  
7                   ment by State and local authorities;
- 8                   “(vi) surface transportation network  
9                   and facility management;
- 10                  “(vii) construction and work zone  
11                  management;
- 12                  “(viii) traffic flow information;
- 13                  “(ix) freight management; and
- 14                  “(x) congestion management;
- 15                  “(B) carrying out activities that support  
16                  the creation of networks that link metropolitan  
17                  and rural surface transportation systems into  
18                  an integrated data network, capable of col-  
19                  lecting, sharing, and archiving transportation  
20                  system traffic condition and performance infor-  
21                  mation;
- 22                  “(C) the implementation of intelligent  
23                  transportation systems and technologies that  
24                  improve highway safety through information  
25                  and communications systems linking vehicles,

1 infrastructure, mobile devices, transportation  
2 users, and emergency responders;

3 “(D) the provision of services necessary to  
4 ensure the efficient operation and management  
5 of ITS infrastructure, including costs associated  
6 with communications, utilities, rent, hardware,  
7 software, labor, administrative costs, training,  
8 and technical services;

9 “(E) the provision of support for the es-  
10 tablishment and maintenance of institutional  
11 relationships between transportation agencies,  
12 police, emergency medical services, private  
13 emergency operators, freight operators, ship-  
14 pers, and public service utilities and tele-  
15 communications providers;

16 “(F) carrying out multimodal and  
17 crossjurisdictional planning and deployment of  
18 regional transportation systems operations and  
19 management approaches; and

20 “(G) performing project evaluations to de-  
21 termine the costs, benefits, lessons learned, and  
22 future deployment strategies associated with the  
23 deployment of intelligent transportation sys-  
24 tems.

1           “(5) REPORT TO SECRETARY.—For each fiscal  
2 year that an eligible entity receives a grant under  
3 this section, not later than 1 year after receiving  
4 that grant, each recipient shall submit a report to  
5 the Secretary that describes how the project has met  
6 the expectations projected in the deployment plan  
7 submitted with the application, including—

8           “(A) data on how the program has helped  
9 reduce traffic crashes, congestion, costs, and  
10 other benefits of the deployed systems;

11           “(B) data on the effect of measuring and  
12 improving transportation system performance  
13 through the deployment of advanced tech-  
14 nologies;

15           “(C) the effectiveness of providing real-  
16 time integrated traffic, transit, and multimodal  
17 transportation information to the public that al-  
18 lows the public to make informed travel deci-  
19 sions; and

20           “(D) lessons learned and recommendations  
21 for future deployment strategies to optimize  
22 transportation efficiency and multimodal system  
23 performance.

24           “(6) REPORT TO CONGRESS.—Not later than 2  
25 years after date on which the first grant is awarded

1 under this section and annually thereafter for each  
2 fiscal year for which grants are awarded under this  
3 section, the Secretary shall submit to Congress a re-  
4 port that describes the effectiveness of the grant re-  
5 cipients in meeting the projected deployment plan  
6 goals, including data on how the grant program  
7 has—

8 “(A) reduced traffic-related fatalities and  
9 injuries;

10 “(B) reduced traffic congestion and im-  
11 proved travel time reliability;

12 “(C) reduced transportation-related emis-  
13 sions;

14 “(D) optimized multimodal system per-  
15 formance;

16 “(E) improved access to transportation al-  
17 ternatives;

18 “(F) provided the public with access to  
19 real-time integrated traffic, transit, and  
20 multimodal transportation information to make  
21 informed travel decisions;

22 “(G) provided cost savings to transpor-  
23 tation agencies, businesses, and the traveling  
24 public; and

1           “(H) provided other benefits to transpor-  
2           tation users and the general public.

3           “(7) ADDITIONAL GRANTS.—If the Secretary  
4           determines, based on a report submitted under para-  
5           graph (5), that a grant recipient is not complying  
6           with the established grant criteria, the Secretary  
7           may—

8           “(A) cease payment to the recipient of any  
9           remaining grant amounts; and

10          “(B) redistribute any remaining amounts  
11          to other eligible entities under this section.

12          “(8) NON-FEDERAL SHARE.—The Federal  
13          share of a grant under this section shall not exceed  
14          50 percent of the cost of the project.

15          “(9) GRANT LIMITATION.—The Secretary may  
16          not award more than 10 percent of the amounts pro-  
17          vided under this section to a single grant recipient  
18          in any fiscal year.

19          “(10) MULTIYEAR GRANTS.—Subject to avail-  
20          ability of amounts, the Secretary may provide an eli-  
21          gible entity with grant amounts for a period of mul-  
22          tiple fiscal years.

23          “(11) FUNDING.—Of the funds authorized to  
24          be appropriated to carry out the intelligent transpor-  
25          tation system program under sections 512 through

1       518, not less than 50 percent of such funds shall be  
2       used to carry out this subsection.”.

3 **SEC. 2302. GOALS AND PURPOSES.**

4       (a) IN GENERAL.—Chapter 5 of title 23, United  
5 States Code, is amended by adding after section 513 the  
6 following:

7 **“§ 514. Goals and purposes**

8       “(a) GOALS.—The goals of the intelligent transpor-  
9 tation system program include—

10           “(1) enhancement of surface transportation ef-  
11 ficiency and facilitation of intermodalism and inter-  
12 national trade to enable existing facilities to meet a  
13 significant portion of future transportation needs,  
14 including public access to employment, goods, and  
15 services and to reduce regulatory, financial, and  
16 other transaction costs to public agencies and sys-  
17 tem users;

18           “(2) achievement of national transportation  
19 safety goals, including enhancement of safe oper-  
20 ation of motor vehicles and nonmotorized vehicles  
21 and improved emergency response to collisions, with  
22 particular emphasis on decreasing the number and  
23 severity of collisions;

24           “(3) protection and enhancement of the natural  
25 environment and communities affected by surface

1 transportation, with particular emphasis on assisting  
2 State and local governments to achieve national en-  
3 vironmental goals;

4 “(4) accommodation of the needs of all users of  
5 surface transportation systems, including operators  
6 of commercial motor vehicles, passenger motor vehi-  
7 cles, motorcycles, bicycles, and pedestrians (includ-  
8 ing individuals with disabilities); and

9 “(5) enhancement of national defense mobility  
10 and improvement of the ability of the United States  
11 to respond to security-related or other manmade  
12 emergencies and natural disasters.

13 “(b) PURPOSES.—The Secretary shall implement ac-  
14 tivities under the intelligent transportation system pro-  
15 gram, at a minimum—

16 “(1) to expedite, in both metropolitan and rural  
17 areas, deployment and integration of intelligent  
18 transportation systems for consumers of passenger  
19 and freight transportation;

20 “(2) to ensure that Federal, State, and local  
21 transportation officials have adequate knowledge of  
22 intelligent transportation systems for consideration  
23 in the transportation planning process;

1           “(3) to improve regional cooperation and oper-  
2           ations planning for effective intelligent transpor-  
3           tation system deployment;

4           “(4) to promote the innovative use of private  
5           resources in support of intelligent transportation  
6           system development;

7           “(5) to facilitate, in cooperation with the motor  
8           vehicle industry, the introduction of vehicle-based  
9           safety enhancing systems;

10          “(6) to support the application of intelligent  
11          transportation systems that increase the safety and  
12          efficiency of commercial motor vehicle operations;

13          “(7) to develop a workforce capable of devel-  
14          oping, operating, and maintaining intelligent trans-  
15          portation systems;

16          “(8) to provide continuing support for oper-  
17          ations and maintenance of intelligent transportation  
18          systems; and

19          “(9) to ensure a systems approach that includes  
20          cooperation among vehicles, infrastructure, and  
21          users.”.

22          (b) CONFORMING AMENDMENT.—The analysis for  
23          chapter 5 of title 23, United States Code, is amended by  
24          adding after the item relating to section 513 the following:

“514. Goals and purposes.”.



1 **SEC. 2303. GENERAL AUTHORITIES AND REQUIREMENTS.**

2 (a) IN GENERAL.—Chapter 5 of title 23, United  
3 States Code, is amended by adding after section 514 (as  
4 added by section 2302) the following:

5 **“§ 515. General authorities and requirements**

6 “(a) SCOPE.—Subject to the provisions of this chap-  
7 ter, the Secretary shall conduct an ongoing intelligent  
8 transportation system program—

9 “(1) to research, develop, and operationally test  
10 intelligent transportation systems; and

11 “(2) to provide technical assistance in the na-  
12 tionwide application of those systems as a compo-  
13 nent of the surface transportation systems of the  
14 United States.

15 “(b) POLICY.—Intelligent transportation system re-  
16 search projects and operational tests funded pursuant to  
17 this chapter shall encourage and not displace public-pri-  
18 vate partnerships or private sector investment in those  
19 tests and projects.

20 “(c) COOPERATION WITH GOVERNMENTAL, PRI-  
21 VATE, AND EDUCATIONAL ENTITIES.—The Secretary  
22 shall carry out the intelligent transportation system pro-  
23 gram in cooperation with State and local governments and  
24 other public entities, the private sector firms of the United  
25 States, the Federal laboratories, and institutions of higher

1 education, including historically Black colleges and univer-  
2 sities and other minority institutions of higher education.

3 “(d) CONSULTATION WITH FEDERAL OFFICIALS.—

4 In carrying out the intelligent transportation system pro-  
5 gram, the Secretary shall consult with the heads of other  
6 Federal agencies, as appropriate.

7 “(e) TECHNICAL ASSISTANCE, TRAINING, AND IN-

8 FORMATION.—The Secretary may provide technical assist-  
9 ance, training, and information to State and local govern-  
10 ments seeking to implement, operate, maintain, or evalu-  
11 ate intelligent transportation system technologies and  
12 services.

13 “(f) TRANSPORTATION PLANNING.—The Secretary

14 may provide funding to support adequate consideration of  
15 transportation systems management and operations, in-  
16 cluding intelligent transportation systems, within metro-  
17 politan and statewide transportation planning processes.

18 “(g) INFORMATION CLEARINGHOUSE.—

19 “(1) IN GENERAL.—The Secretary shall—

20 “(A) maintain a repository for technical  
21 and safety data collected as a result of federally  
22 sponsored projects carried out under this chap-  
23 ter; and

24 “(B) make, on request, that information  
25 (except for proprietary information and data)

1 readily available to all users of the repository at  
2 an appropriate cost.

3 “(2) AGREEMENT.—

4 “(A) IN GENERAL.—The Secretary may  
5 enter into an agreement with a third party for  
6 the maintenance of the repository for technical  
7 and safety data under paragraph (1)(A).

8 “(B) FEDERAL FINANCIAL ASSISTANCE.—

9 If the Secretary enters into an agreement with  
10 an entity for the maintenance of the repository,  
11 the entity shall be eligible for Federal financial  
12 assistance under this section.

13 “(3) AVAILABILITY OF INFORMATION.—Infor-  
14 mation in the repository shall not be subject to sec-  
15 tions 552 and 555 of title 5, United States Code.

16 “(h) ADVISORY COMMITTEE.—

17 “(1) IN GENERAL.—The Secretary shall estab-  
18 lish an Advisory Committee to advise the Secretary  
19 on carrying out this chapter.

20 “(2) MEMBERSHIP.—The Advisory Committee  
21 shall have no more than 20 members, be balanced  
22 between metropolitan and rural interests, and in-  
23 clude, at a minimum—

24 “(A) a representative from a State high-  
25 way department;

1           “(B) a representative from a local highway  
2 department who is not from a metropolitan  
3 planning organization;

4           “(C) a representative from a State, local,  
5 or regional transit agency;

6           “(D) a representative from a metropolitan  
7 planning organization;

8           “(E) a private sector user of intelligent  
9 transportation system technologies;

10          “(F) an academic researcher with expertise  
11 in computer science or another information  
12 science field related to intelligent transportation  
13 systems, and who is not an expert on transpor-  
14 tation issues;

15          “(G) an academic researcher who is a civil  
16 engineer;

17          “(H) an academic researcher who is a so-  
18 cial scientist with expertise in transportation  
19 issues;

20          “(I) a representative from a nonprofit  
21 group representing the intelligent transpor-  
22 tation system industry;

23          “(J) a representative from a public interest  
24 group concerned with safety;

1           “(K) a representative from a public inter-  
2 est group concerned with the impact of the  
3 transportation system on land use and residen-  
4 tial patterns; and

5           “(L) members with expertise in planning,  
6 safety, telecommunications, utilities, and oper-  
7 ations.

8           “(3) DUTIES.—The Advisory Committee shall,  
9 at a minimum, perform the following duties:

10           “(A) Provide input into the development of  
11 the intelligent transportation system aspects of  
12 the strategic plan under section 508.

13           “(B) Review, at least annually, areas of in-  
14 telligent transportation systems research being  
15 considered for funding by the Department, to  
16 determine—

17           “(i) whether these activities are likely  
18 to advance either the state-of-the-practice  
19 or state-of-the-art in intelligent transpor-  
20 tation systems;

21           “(ii) whether the intelligent transpor-  
22 tation system technologies are likely to be  
23 deployed by users, and if not, to determine  
24 the barriers to deployment; and

1                   “(iii) the appropriate roles for govern-  
2                   ment and the private sector in investing in  
3                   the research and technologies being consid-  
4                   ered.

5                   “(4) REPORT.—Not later than February 1 of  
6                   each year after the date of enactment of the MAP-  
7                   21, the Secretary shall submit to Congress a report  
8                   that includes—

9                   “(A) all recommendations made by the Ad-  
10                  visory Committee during the preceding calendar  
11                  year;

12                  “(B) an explanation of the manner in  
13                  which the Secretary has implemented those rec-  
14                  ommendations; and

15                  “(C) for recommendations not imple-  
16                  mented, the reasons for rejecting the rec-  
17                  ommendations.

18                  “(5) APPLICABILITY OF FEDERAL ADVISORY  
19                  COMMITTEE ACT.—The Advisory Committee shall be  
20                  subject to the Federal Advisory Committee Act (5  
21                  U.S.C. App.).

22                  “(i) REPORTING.—

23                  “(1) GUIDELINES AND REQUIREMENTS.—

24                  “(A) IN GENERAL.—The Secretary shall  
25                  issue guidelines and requirements for the re-

1            reporting and evaluation of operational tests and  
2            deployment projects carried out under this  
3            chapter.

4            “(B) OBJECTIVITY AND INDEPENDENCE.—  
5            The guidelines and requirements issued under  
6            subparagraph (A) shall include provisions to en-  
7            sure the objectivity and independence of the re-  
8            porting entity so as to avoid any real or appar-  
9            ent conflict of interest or potential influence on  
10           the outcome by parties to any such test or de-  
11           ployment project or by any other formal evalua-  
12           tion carried out under this chapter.

13           “(C) FUNDING.—The guidelines and re-  
14           quirements issued under subparagraph (A) shall  
15           establish reporting funding levels based on the  
16           size and scope of each test or project that en-  
17           sure adequate reporting of the results of the  
18           test or project.

19           “(2) SPECIAL RULE.—Any survey, question-  
20           naire, or interview that the Secretary considers nec-  
21           essary to carry out the reporting of any test, deploy-  
22           ment project, or program assessment activity under  
23           this chapter shall not be subject to chapter 35 of  
24           title 44, United States Code.”.

1 (b) CONFORMING AMENDMENT.—The analysis for  
2 chapter 5 of title 23, United States Code, is amended by  
3 adding after the item relating to section 514 (as added  
4 by section 2302) the following:

“515. General authorities and requirements.”.

5 **SEC. 2304. RESEARCH AND DEVELOPMENT.**

6 (a) IN GENERAL.—Chapter 5 of title 23, United  
7 States Code, is amended by adding after section 515 (as  
8 added by section 2303) the following:

9 **“§ 516. Research and development**

10 “(a) IN GENERAL.—The Secretary shall carry out a  
11 comprehensive program of intelligent transportation sys-  
12 tem research and development, and operational tests of  
13 intelligent vehicles, intelligent infrastructure systems, and  
14 other similar activities that are necessary to carry out this  
15 chapter.

16 “(b) PRIORITY AREAS.—Under the program, the Sec-  
17 retary shall give higher priority to funding projects that—

18 “(1) enhance mobility and productivity through  
19 improved traffic management, incident management,  
20 transit management, freight management, road  
21 weather management, toll collection, traveler infor-  
22 mation, or highway operations systems and remote  
23 sensing products;



1           “(2) use interdisciplinary approaches to develop  
2 traffic management strategies and tools to address  
3 multiple impacts of congestion concurrently;

4           “(3) address traffic management, incident man-  
5 agement, transit management, toll collection traveler  
6 information, or highway operations systems;

7           “(4) incorporate research on the impact of envi-  
8 ronmental, weather, and natural conditions on intel-  
9 ligent transportation systems, including the effects  
10 of cold climates;

11           “(5) enhance intermodal use of intelligent  
12 transportation systems for diverse groups, including  
13 for emergency and health-related services;

14           “(6) enhance safety through improved crash  
15 avoidance and protection, crash and other notifica-  
16 tion, commercial motor vehicle operations, and infra-  
17 structure-based or cooperative safety systems; or

18           “(7) facilitate the integration of intelligent in-  
19 frastructure, vehicle, and control technologies.

20           “(c) FEDERAL SHARE.—The Federal share payable  
21 on account of any project or activity carried out under  
22 subsection (a) shall not exceed 80 percent.”.

23           (b) CONFORMING AMENDMENT.—The analysis for  
24 chapter 5 of title 23, United States Code, is amended by

1 adding after the item relating to section 515 (as added  
2 by section 2304) the following:

“516. Research and development.”.

3 **SEC. 2305. NATIONAL ARCHITECTURE AND STANDARDS.**

4 (a) IN GENERAL.—Chapter 5 of title 23, United  
5 States Code, is amended by adding after section 516 (as  
6 added by section 2304) the following:

7 **“§ 517. National architecture and standards.**

8 “(a) IN GENERAL.—

9 “(1) DEVELOPMENT, IMPLEMENTATION, AND  
10 MAINTENANCE.—In accordance with section 12(d) of  
11 the National Technology Transfer and Advancement  
12 Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783;  
13 115 Stat. 1241), the Secretary shall develop and  
14 maintain a national ITS architecture and supporting  
15 ITS standards and protocols to promote the use of  
16 systems engineering methods in the widespread de-  
17 ployment and evaluation of intelligent transportation  
18 systems as a component of the surface transpor-  
19 tation systems of the United States.

20 “(2) INTEROPERABILITY AND EFFICIENCY.—To  
21 the maximum extent practicable, the national ITS  
22 architecture and supporting ITS standards and pro-  
23 tocols shall promote interoperability among, and effi-  
24 ciency of, intelligent transportation systems and

1 technologies implemented throughout the United  
2 States.

3 “(3) USE OF STANDARDS DEVELOPMENT ORGA-  
4 NIZATIONS.—In carrying out this section, the Sec-  
5 retary shall support the development and mainte-  
6 nance of standards and protocols using the services  
7 of such standards development organizations as the  
8 Secretary determines to be necessary and whose  
9 memberships are comprised of, and represent, the  
10 surface transportation and intelligent transportation  
11 systems industries.

12 “(b) STANDARDS FOR NATIONAL POLICY IMPLEMEN-  
13 TATION.—If the Secretary finds that a standard is nec-  
14 essary for implementation of a nationwide policy relating  
15 to user fee collection or other capability requiring nation-  
16 wide uniformity, the Secretary, after consultation with  
17 stakeholders, may establish and require the use of that  
18 standard.

19 “(c) PROVISIONAL STANDARDS.—

20 “(1) IN GENERAL.—If the Secretary finds that  
21 the development or balloting of an intelligent trans-  
22 portation system standard jeopardizes the timely  
23 achievement of the objectives described in subsection  
24 (a), the Secretary may establish a provisional stand-  
25 ard, after consultation with affected parties, using,

1 to the maximum extent practicable, the work prod-  
2 uct of appropriate standards development organiza-  
3 tions.

4 “(2) PERIOD OF EFFECTIVENESS.—A provi-  
5 sional standard established under paragraph (1)  
6 shall be published in the Federal Register and re-  
7 main in effect until the appropriate standards devel-  
8 opment organization adopts and publishes a stand-  
9 ard.

10 “(d) CONFORMITY WITH NATIONAL ARCHITEC-  
11 TURE.—

12 “(1) IN GENERAL.—Except as provided in para-  
13 graph (2), the Secretary shall ensure that intelligent  
14 transportation system projects carried out using  
15 amounts made available from the Highway Trust  
16 Fund, including amounts made available to deploy  
17 intelligent transportation systems, conform to the  
18 appropriate regional ITS architecture, applicable  
19 standards, and protocols developed under subsection  
20 (a) or (c).

21 “(2) DISCRETION OF THE SECRETARY.—The  
22 Secretary, at the discretion of the Secretary, may  
23 offer an exemption from paragraph (1) for projects  
24 designed to achieve specific research objectives out-  
25 lined in the national intelligent transportation sys-

1       tem program plan or the surface transportation re-  
 2       search and development strategic plan developed  
 3       under section 508.”.

4       (b) CONFORMING AMENDMENT.—The analysis for  
 5       chapter 5 of title 23, United States Code, is amended by  
 6       adding after the item relating to section 516 (as added  
 7       by section 2304) the following:

“517. National architecture and standards.”.

8       **SEC. 2306. 5.9 GHz VEHICLE-TO-VEHICLE AND VEHICLE-TO-**  
 9                               **INFRASTRUCTURE COMMUNICATIONS SYS-**  
 10                              **TEMS DEPLOYMENT.**

11       (a) IN GENERAL.—Chapter 5 of title 23, United  
 12       States Code, is amended by adding after section 517 (as  
 13       added by section 2305) the following:

14       **“§ 518. 5.9 GHz vehicle-to-vehicle and vehicle-to-infra-**  
 15                              **structure communications systems de-**  
 16                              **ployment**

17       “(a) IN GENERAL.—Not later than 3 years after the  
 18       date of enactment of this section, the Secretary shall sub-  
 19       mit to the appropriate committees of Congress a report  
 20       that—

21               “(1) describes a recommended implementation  
 22               path for dedicated short-range communications tech-  
 23               nology and applications; and

24               “(2) includes guidance on the relationship of  
 25               the proposed deployment of dedicated short-range

1       communications to the National ITS Architecture  
2       and ITS Standards.

3       “(b) NATIONAL RESEARCH COUNCIL REVIEW.—The  
4 Secretary shall enter into an agreement with the National  
5 Research Council for the review by the National Research  
6 Council of the report described in subsection (a).”.

7       (b) CONFORMING AMENDMENT.—The analysis of  
8 chapter 5 of title 23, United States Code, is amended by  
9 adding after section 517 (as added by section 2305) the  
10 following:

“518. 5.9 GHz vehicle-to-vehicle and vehicle-to-infrastructure communications  
systems deployment.”.

11 **TITLE III—AMERICA FAST FOR-**  
12 **WARD FINANCING INNOVA-**  
13 **TION**

14 **SEC. 3001. SHORT TITLE.**

15       This title may be cited as the “America Fast Forward  
16 Financing Innovation Act of 2011”.

17 **SEC. 3002. TRANSPORTATION INFRASTRUCTURE FINANCE**  
18 **AND INNOVATION ACT AMENDMENTS.**

19       Sections 601 through 609 of title 23, United States  
20 Code, are amended to read as follows:

21 **“§ 601. Generally applicable provisions**

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

1           “(1) ELIGIBLE PROJECT COSTS.—The term ‘eli-  
2           gible project costs’ means amounts substantially all  
3           of which are paid by, or for the account of, an obli-  
4           gor in connection with a project, including the cost  
5           of—

6                   “(A) development phase activities, includ-  
7                   ing planning, feasibility analysis, revenue fore-  
8                   casting, environmental review, permitting, pre-  
9                   liminary engineering and design work, and  
10                  other preconstruction activities;

11                  “(B) construction, reconstruction, rehabili-  
12                  tation, replacement, and acquisition of real  
13                  property (including land relating to the project  
14                  and improvements to land), environmental miti-  
15                  gation, construction contingencies, and acquisi-  
16                  tion of equipment; and

17                  “(C) capitalized interest necessary to meet  
18                  market requirements, reasonably required re-  
19                  serve funds, capital issuance expenses, and  
20                  other carrying costs during construction.

21           “(2) FEDERAL CREDIT INSTRUMENT.—The  
22           term ‘Federal credit instrument’ means a secured  
23           loan, loan guarantee, or line of credit authorized to  
24           be made available under this chapter with respect to  
25           a project.

1           “(3) INVESTMENT-GRADE RATING.—The term  
2           ‘investment-grade rating’ means a rating of BBB  
3           minus, Baa3, bbb minus, BBB (low), or higher as-  
4           signed by a rating agency to project obligations.

5           “(4) LENDER.—The term ‘lender’ means any  
6           non-Federal qualified institutional buyer (as defined  
7           in section 230.144A(a) of title 17, Code of Federal  
8           Regulations (or any successor regulation), known as  
9           Rule 144A(a) of the Securities and Exchange Com-  
10          mission and issued under the Securities Act of 1933  
11          (15 U.S.C. 77a et seq.)), including—

12                   “(A) a qualified retirement plan (as de-  
13                   fined in section 4974(c) of the Internal Revenue  
14                   Code of 1986) that is a qualified institutional  
15                   buyer; and

16                   “(B) a governmental plan (as defined in  
17                   section 414(d) of the Internal Revenue Code of  
18                   1986) that is a qualified institutional buyer.

19          “(5) LETTER OF INTEREST.—The term ‘letter  
20          of interest’ means a letter submitted by a potential  
21          applicant prior to an application for credit assistance  
22          in a format prescribed by the Secretary on the  
23          website of the TIFIA program, which—

24                   “(A) describes the project and the location,  
25                   purpose, and cost of the project;



1           “(B) outlines the proposed financial plan,  
2           including the requested credit assistance and  
3           the proposed obligor;

4           “(C) provides a status of environmental re-  
5           view; and

6           “(D) provides information regarding satis-  
7           faction of other eligibility requirements of the  
8           TIFIA program.

9           “(6) LINE OF CREDIT.—The term “‘line of  
10          credit’” means an agreement entered into by the  
11          Secretary with an obligor under section 604 to pro-  
12          vide a direct loan at a future date upon the occur-  
13          rence of certain events.

14          “(7) LIMITED BUYDOWN.—The term ‘limited  
15          buydown’ means, subject to the conditions described  
16          in section 603(b)(4)(C), a buydown of the interest  
17          rate by the Secretary and by the obligor if the inter-  
18          est rate has increased between—

19                 “(A)(i) the date on which a project appli-  
20                 cation acceptable to the Secretary is submitted;  
21                 or

22                 “(ii) the date on which the Secretary en-  
23                 tered into a master credit agreement; and

24                 “(B) the date on which the Secretary exe-  
25                 cutes the Federal credit instrument.

1           “(8) LOAN GUARANTEE.—The term ‘loan guar-  
2           antee’ means any guarantee or other pledge by the  
3           Secretary to pay all or part of the principal of and  
4           interest on a loan or other debt obligation issued by  
5           an obligor and funded by a lender.

6           “(9) MASTER CREDIT AGREEMENT.—The term  
7           ‘master credit agreement’ means an agreement to  
8           extend credit assistance for a program of projects  
9           secured by a common security pledge (which shall  
10          receive an investment grade rating from a rating  
11          agency), or for a single project covered under section  
12          602(b)(2) that would—

13                 “(A) make contingent commitments of 1 or  
14                 more secured loans or other Federal credit in-  
15                 struments at future dates;

16                 “(B) establish the maximum amounts and  
17                 general terms and conditions of the secured  
18                 loans or other Federal credit instruments;

19                 “(C) identify the 1 or more dedicated non-  
20                 Federal revenue sources that will secure the re-  
21                 payment of the secured loans or secured Fed-  
22                 eral credit instruments;

23                 “(D) provide for the obligation of funds for  
24                 the secured loans or secured Federal credit in-  
25                 struments after all requirements have been met

1 for the projects subject to the master credit  
2 agreement, including—

3 “(i) completion of an environmental  
4 impact statement or similar analysis re-  
5 quired under the National Environmental  
6 Policy Act of 1969 (42 U.S.C. 4321 et  
7 seq.); and

8 “(ii) compliance with such other re-  
9 quirements as are specified in section  
10 602(c); and

11 “(E) require that contingent commitments  
12 result in a financial close and obligation of  
13 credit assistance not later than 3 years after  
14 the date of entry into the master credit agree-  
15 ment, or release of the commitment, unless oth-  
16 erwise extended by the Secretary.

17 “(10) OBLIGOR.—The term ‘obligor’ means a  
18 party that—

19 “(A) is primarily liable for payment of the  
20 principal of or interest on a Federal credit in-  
21 strument; and

22 “(B) may be a corporation, partnership,  
23 joint venture, trust, or governmental entity,  
24 agency, or instrumentality.

25 “(11) PROJECT.—The term ‘project’ means—

1           “(A) any surface transportation project eli-  
2           gible for Federal assistance under this title or  
3           chapter 53 of title 49;

4           “(B) a project for an international bridge  
5           or tunnel for which an international entity au-  
6           thorized under Federal or State law is respon-  
7           sible;

8           “(C) a project for intercity passenger bus  
9           or rail facilities and vehicles, including facilities  
10          and vehicles owned by the National Railroad  
11          Passenger Corporation and components of mag-  
12          netic levitation transportation systems; and

13          “(D) a project that—

14                 “(i) is a project—

15                         “(I) for a public freight rail facil-  
16                         ity or a private facility providing pub-  
17                         lic benefit for highway users by way of  
18                         direct freight interchange between  
19                         highway and rail carriers;

20                         “(II) for an intermodal freight  
21                         transfer facility;

22                         “(III) for a means of access to a  
23                         facility described in subclause (I) or  
24                         (II);

1                   “(IV) for a service improvement  
2                   for a facility described in subclause  
3                   (I) or (II) (including a capital invest-  
4                   ment for an intelligent transportation  
5                   system); or

6                   “(V) that comprises a series of  
7                   projects described in subclauses (I)  
8                   through (IV) with the common objec-  
9                   tive of improving the flow of goods;

10                  “(ii) may involve the combining of pri-  
11                  vate and public sector funds, including in-  
12                  vestment of public funds in private sector  
13                  facility improvements;

14                  “(iii) if located within the boundaries  
15                  of a port terminal, includes only such sur-  
16                  face transportation infrastructure modi-  
17                  fications as are necessary to facilitate di-  
18                  rect intermodal interchange, transfer, and  
19                  access into and out of the port; and

20                  “(iv) is composed of related highway,  
21                  surface transportation, transit, rail, or  
22                  intermodal capital improvement projects el-  
23                  igible for assistance under this subsection  
24                  in order to meet the eligible project cost  
25                  threshold under section 602, by grouping

1           related projects together for that purpose,  
2           on the condition that the credit assistance  
3           for the projects is secured by a common  
4           pledge.

5           “(12) PROJECT OBLIGATION.—The term  
6           ‘project obligation’ means any note, bond, debenture,  
7           or other debt obligation issued by an obligor in con-  
8           nection with the financing of a project, other than  
9           a Federal credit instrument.

10          “(13) RATING AGENCY.—The term ‘rating  
11          agency’ means a credit rating agency registered with  
12          the Securities and Exchange Commission as a na-  
13          tionally recognized statistical rating organization (as  
14          that term is defined in section 3(a) of the Securities  
15          Exchange Act of 1934 (15 U.S.C. 78c(a))).

16          “(14) RURAL INFRASTRUCTURE PROJECT.—  
17          The term ‘rural infrastructure project’ means a sur-  
18          face transportation infrastructure project located in  
19          any area other than an urbanized area that has a  
20          population of greater than 200,000 inhabitants.

21          “(15) SECURED LOAN.—The term ‘secured  
22          loan’ means a direct loan or other debt obligation  
23          issued by an obligor and funded by the Secretary in  
24          connection with the financing of a project under sec-  
25          tion 603.

1           “(16) STATE.—The term ‘State’ has the mean-  
2           ing given the term in section 101.

3           “(17) SUBSIDY AMOUNT.—The term ‘subsidy  
4           amount’ means the amount of budget authority suf-  
5           ficient to cover the estimated long-term cost to the  
6           Federal Government of a Federal credit instrument,  
7           calculated on a net present value basis, excluding  
8           administrative costs and any incidental effects on  
9           governmental receipts or outlays in accordance with  
10          the Federal Credit Reform Act of 1990 (2 U.S.C.  
11          661 et seq.).

12          “(18) SUBSTANTIAL COMPLETION.—The term  
13          ‘substantial completion’ means—

14                 “(A) the opening of a project to vehicular  
15                 or passenger traffic; or

16                 “(B) a comparable event, as determined by  
17                 the Secretary and specified in the credit agree-  
18                 ment.

19          “(19) TIFIA PROGRAM.—The term ‘TIFIA  
20          program’ means the transportation infrastructure fi-  
21          nance and innovation program of the Department.

22          “(b) TREATMENT OF CHAPTER.—For purposes of  
23          this title, this chapter shall be treated as being part of  
24          chapter 1.

1 **“§ 602. Determination of eligibility and project selec-**  
2 **tion**

3 “(a) ELIGIBILITY.—A project shall be eligible to re-  
4 ceive credit assistance under this chapter if the entity pro-  
5 posing to carry out the project submits a letter of interest  
6 prior to submission of a formal application for the project,  
7 and the project meets the following criteria:

8 “(1) CREDITWORTHINESS.—

9 “(A) IN GENERAL.—The project shall sat-  
10 isfy applicable creditworthiness standards,  
11 which, at a minimum, includes—

12 “(i) a rate covenant, if applicable;

13 “(ii) adequate coverage requirements  
14 to ensure repayment;

15 “(iii) an investment grade rating from  
16 at least 2 rating agencies on debt senior to  
17 the Federal credit instrument; and

18 “(iv) a rating from at least 2 rating  
19 agencies on the Federal credit instrument,  
20 subject to the condition that, with respect  
21 to clauses (ii) and (iii), if the senior debt  
22 and Federal credit instrument is for an  
23 amount less than \$75,000,000 or for a  
24 rural infrastructure project or intelligent  
25 transportation systems project, 1 rating  
26 agency opinion for each of the senior debt



1           and Federal credit instrument shall be suf-  
2           ficient.

3           “(B) SENIOR DEBT.—Notwithstanding  
4           subparagraph (A), in a case in which the Fed-  
5           eral credit instrument is the senior debt, the  
6           Federal credit instrument shall be required to  
7           receive an investment grade rating from at least  
8           2 rating agencies, unless the credit instrument  
9           is for a rural infrastructure project or intel-  
10          ligent transportation systems project, in which  
11          case 1 rating agency opinion shall be sufficient.

12          “(2) INCLUSION IN TRANSPORTATION PLANS  
13          AND PROGRAMS.—The project shall satisfy the appli-  
14          cable planning and programming requirements of  
15          sections 134 and 135 at such time as an agreement  
16          to make available a Federal credit instrument is en-  
17          tered into under this chapter.

18          “(3) APPLICATION.—A State, local government,  
19          public authority, public-private partnership, or any  
20          other legal entity undertaking the project and au-  
21          thorized by the Secretary, shall submit a project ap-  
22          plication acceptable to the Secretary.

23          “(4) ELIGIBLE PROJECT COSTS.—

24                  “(A) IN GENERAL.—Except as provided in  
25                  subparagraph (B), to be eligible for assistance

1 under this chapter, a project shall have eligible  
2 project costs that are reasonably anticipated to  
3 equal or exceed the lesser of—

4 “(i)(I) \$50,000,000; or

5 “(II) in the case of a rural infrastruc-  
6 ture project, \$25,000,000; or

7 “(ii) 33 $\frac{1}{3}$  percent of the amount of  
8 Federal highway assistance funds appor-  
9 tioned for the most recently completed fis-  
10 cal year to the State in which the project  
11 is located.

12 “(B) INTELLIGENT TRANSPORTATION SYS-  
13 TEM PROJECTS.—In the case of a project prin-  
14 cipally involving the installation of an intelligent  
15 transportation system, eligible project costs  
16 shall be reasonably anticipated to equal or ex-  
17 ceed \$15,000,000.

18 “(5) DEDICATED REVENUE SOURCES.—The  
19 Federal credit instrument shall be repayable, in  
20 whole or in part, from tolls, user fees, or other dedi-  
21 cated revenue sources that also secure the project  
22 obligations.

23 “(6) PUBLIC SPONSORSHIP OF PRIVATE ENTI-  
24 TIES.—In the case of a project that is undertaken  
25 by an entity that is not a State or local government

1 or an agency or instrumentality of a State or local  
2 government, the project that the entity is under-  
3 taking shall be publicly sponsored as provided in  
4 paragraph (2).

5 “(b) SELECTION AMONG ELIGIBLE PROJECTS.—

6 “(1) ESTABLISHMENT.—The Secretary shall es-  
7 tablish a rolling application process in which projects  
8 that are eligible to receive credit assistance under  
9 subsection (a) shall receive credit assistance on  
10 terms acceptable to the Secretary, if adequate funds  
11 are available to cover the subsidy costs associated  
12 with the Federal credit instrument.

13 “(2) ADEQUATE FUNDING NOT AVAILABLE.—

14 “(A) IN GENERAL.—If the Secretary fully  
15 obligates funding to eligible projects in a given  
16 fiscal year, and adequate funding is not avail-  
17 able to fund a credit instrument, a project  
18 sponsor of an eligible project may elect to enter  
19 into a master credit agreement and wait until  
20 the following fiscal year to receive credit assist-  
21 ance, or pay its own credit subsidy to permit an  
22 obligation.

23 “(B) USE OF FUNDS.—A project sponsor  
24 may use any eligible funds apportioned under  
25 chapter 1 of this title or chapter 53 of title 49

1           to pay a credit subsidy described in subpara-  
2           graph (A).

3           “(3) PRELIMINARY RATING OPINION LETTER.—

4           The Secretary shall require each project applicant to  
5           provide a preliminary rating opinion letter from at  
6           least 1 rating agency—

7                   “(A) indicating that the senior obligations  
8                   of the project, which may be the Federal credit  
9                   instrument, have the potential to achieve an in-  
10                  vestment-grade rating; and

11                   “(B) including a preliminary rating opin-  
12                  ion on the Federal credit instrument.

13          “(c) FEDERAL REQUIREMENTS.—

14                  “(1) IN GENERAL.—In addition to the require-  
15                  ments of this title for highway projects, chapter 53  
16                  of title 49 for transit projects, and section 5333(a)  
17                  of title 49 for rail projects, the following provisions  
18                  of law shall apply to funds made available under this  
19                  chapter and projects assisted with the funds:

20                          “(A) Title VI of the Civil Rights Act of  
21                          1964 (42 U.S.C. 2000d et seq.).

22                          “(B) The National Environmental Policy  
23                          Act of 1969 (42 U.S.C. 4321 et seq.).

1           “(C) The Uniform Relocation Assistance  
2           and Real Property Acquisition Policies Act of  
3           1970 (42 U.S.C. 4601 et seq.).

4           “(2) NEPA.—No funding shall be obligated for  
5           a project that has not received an environmental  
6           Categorical Exclusion, Finding of No Significant  
7           Impact, or Record of Decision under the National  
8           Environmental Policy Act of 1969 (42 U.S.C. 4321  
9           et seq.).

10 **“§ 603. Secured loans**

11           “(a) IN GENERAL.—

12           “(1) AGREEMENTS.—Subject to paragraphs (2)  
13           through (4), the Secretary may enter into agree-  
14           ments with 1 or more obligors to make secured  
15           loans, the proceeds of which shall be used—

16                   “(A) to finance eligible project costs of any  
17                   project selected under section 602;

18                   “(B) to refinance interim construction fi-  
19                   nancing of eligible project costs of any project  
20                   selected under section 602; or

21                   “(C) to refinance long-term project obliga-  
22                   tions or Federal credit instruments if the refi-  
23                   nancing provides additional funding capacity for  
24                   the completion, enhancement, or expansion of  
25                   any project that—

1 “(i) is selected under section 602; or

2 “(ii) otherwise meets the requirements  
3 of section 602.

4 “(2) LIMITATION ON REFINANCING OF INTERIM  
5 CONSTRUCTION FINANCING.—A loan under para-  
6 graph (1) shall not refinance interim construction fi-  
7 nancing under paragraph (1)(B) later than 1 year  
8 after the date of substantial completion of the  
9 project.

10 “(3) RISK ASSESSMENT.—Before entering into  
11 an agreement under this subsection, the Secretary,  
12 in consultation with the Director of the Office of  
13 Management and Budget, shall determine an appro-  
14 priate capital reserve subsidy amount for each se-  
15 cured loan, taking into account each rating letter  
16 provided by an agency under section 602(b)(3)(B).

17 “(b) TERMS AND LIMITATIONS.—

18 “(1) IN GENERAL.—A secured loan under this  
19 section with respect to a project shall be on such  
20 terms and conditions and contain such covenants,  
21 representations, warranties, and requirements (in-  
22 cluding requirements for audits) as the Secretary de-  
23 termines appropriate.

24 “(2) MAXIMUM AMOUNT.—The amount of the  
25 secured loan shall not exceed the lesser of 49 per-

1 cent of the reasonably anticipated eligible project  
2 costs or, if the secured loan does not receive an in-  
3 vestment grade rating, the amount of the senior  
4 project obligations.

5 “(3) PAYMENT.—The secured loan—

6 “(A) shall—

7 “(i) be payable, in whole or in part,  
8 from tolls, user fees, or other dedicated  
9 revenue sources that also secure the senior  
10 project obligations; and

11 “(ii) include a rate covenant, coverage  
12 requirement, or similar security feature  
13 supporting the project obligations; and

14 “(B) may have a lien on revenues de-  
15 scribed in subparagraph (A) subject to any lien  
16 securing project obligations.

17 “(4) INTEREST RATE.—

18 “(A) IN GENERAL.—Except as provided in  
19 subparagraphs (B) and (C), the interest rate on  
20 the secured loan shall be not less than the yield  
21 on United States Treasury securities of a simi-  
22 lar maturity to the maturity of the secured loan  
23 on the date of execution of the loan agreement.

24 “(B) RURAL INFRASTRUCTURE  
25 PROJECTS.—A loan offered to a rural infra-

1 structure project under this chapter shall be at  
2  $\frac{1}{2}$  of the Treasury Rate.

3 “(C) LIMITED BUYDOWNS.—A limited  
4 buydown is subject to the following conditions:

5 “(i) The interest rate under the agree-  
6 ment may not be lowered by more than the  
7 lower of—

8 “(I)  $1\frac{1}{2}$  percentage points (150  
9 basis points); or

10 “(II) the amount of the increase  
11 in the interest rate.

12 “(ii) The Secretary may pay up to 50  
13 percent of the cost of the limited buydown,  
14 and the obligor shall pay the balance of the  
15 cost of the limited buydown.

16 “(iii) Not more than 5 percent of the  
17 funding made available annually to carry  
18 out this chapter may be used to carry out  
19 limited buydowns.

20 “(5) MATURITY DATE.—The final maturity  
21 date of the secured loan shall be the lesser of—

22 “(A) 35 years after the date of substantial  
23 completion of the project; or



1           “(B) if the useful life of the capital asset  
2 being financed is of a lesser period, the useful  
3 life of the asset.

4           “(6) NONSUBORDINATION.—

5           “(A) IN GENERAL.—Except as provided in  
6 subparagraphs (B) and (C), the secured loan  
7 shall not be subordinated to the claims of any  
8 holder of project obligations in the event of  
9 bankruptcy, insolvency, or liquidation of the ob-  
10 ligor.

11           “(B) PRE-EXISTING INDENTURE.—

12           “(i) IN GENERAL.—The Secretary  
13 shall waive subparagraph (A) for public  
14 agency borrowers that are financing ongo-  
15 ing capital programs and have outstanding  
16 senior bonds under a pre-existing inden-  
17 ture, if—

18           “(I) the secured loan is rated in  
19 the A-category or higher;

20           “(II) the secured loan is secured  
21 and payable from pledged revenues  
22 not affected by project performance,  
23 such as a tax-backed revenue pledge  
24 or a system-backed pledge of project  
25 revenues; and

1                   “(III) the TIFIA program share  
2                   of eligible project costs is 33 percent  
3                   or less.

4                   “(ii) LIMITATION.—If the Secretary  
5                   waives the nonsubordination requirement  
6                   under this subparagraph—

7                   “(I) the maximum credit subsidy  
8                   that will be paid by the Federal Gov-  
9                   ernment shall be limited to 10 percent  
10                  of the principal amount of the secured  
11                  loan; and

12                  “(II) the obligor shall be respon-  
13                  sible for paying the remainder of the  
14                  subsidy cost.

15                  “(7) FEES.—The Secretary may establish fees  
16                  at a level sufficient to cover all or a portion of the  
17                  costs to the Federal Government of making a se-  
18                  cured loan under this section.

19                  “(8) NON-FEDERAL SHARE.—The proceeds of a  
20                  secured loan under this chapter may be used for any  
21                  non-Federal share of project costs required under  
22                  this title or chapter 53 of title 49, if the loan is re-  
23                  payable from non-Federal funds.

24                  “(9) MAXIMUM FEDERAL INVOLVEMENT.—The  
25                  total Federal assistance provided on a project receiv-

1       ing a loan under this chapter shall not exceed 80  
2       percent of the total project cost.

3       “(c) REPAYMENT.—

4             “(1) SCHEDULE.—The Secretary shall establish  
5       a repayment schedule for each secured loan under  
6       this section based on the projected cash flow from  
7       project revenues and other repayment sources, and  
8       the useful life of the project.

9             “(2) COMMENCEMENT.—Scheduled loan repay-  
10      ments of principal or interest on a secured loan  
11      under this section shall commence not later than 5  
12      years after the date of substantial completion of the  
13      project.

14          “(3) DEFERRED PAYMENTS.—

15             “(A) AUTHORIZATION.—If, at any time  
16      after the date of substantial completion of the  
17      project, the project is unable to generate suffi-  
18      cient revenues to pay the scheduled loan repay-  
19      ments of principal and interest on the secured  
20      loan, the Secretary may, subject to subpara-  
21      graph (C), allow the obligor to add unpaid prin-  
22      cipal and interest to the outstanding balance of  
23      the secured loan.

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

1           “(i) continue to accrue interest in ac-  
2           cordance with subsection (b)(4) until fully  
3           repaid; and

4           “(ii) be scheduled to be amortized  
5           over the remaining term of the loan.

6           “(C) CRITERIA.—

7           “(i) IN GENERAL.—Any payment de-  
8           ferral under subparagraph (A) shall be  
9           contingent on the project meeting criteria  
10          established by the Secretary.

11          “(ii) REPAYMENT STANDARDS.—The  
12          criteria established under clause (i) shall  
13          include standards for reasonable assurance  
14          of repayment.

15          “(4) PREPAYMENT.—

16          “(A) USE OF EXCESS REVENUES.—Any  
17          excess revenues that remain after satisfying  
18          scheduled debt service requirements on the  
19          project obligations and secured loan and all de-  
20          posit requirements under the terms of any trust  
21          agreement, bond resolution, or similar agree-  
22          ment securing project obligations may be ap-  
23          plied annually to prepay the secured loan with-  
24          out penalty.

1           “(B) USE OF PROCEEDS OF REFI-  
2           NANCING.—The secured loan may be prepaid at  
3           any time without penalty from the proceeds of  
4           refinancing from non-Federal funding sources.

5           “(d) SALE OF SECURED LOANS.—

6           “(1) IN GENERAL.—Subject to paragraph (2),  
7           as soon as practicable after substantial completion of  
8           a project and after notifying the obligor, the Sec-  
9           retary may sell to another entity or reoffer into the  
10          capital markets a secured loan for the project if the  
11          Secretary determines that the sale or reoffering can  
12          be made on favorable terms.

13          “(2) CONSENT OF OBLIGOR.—In making a sale  
14          or reoffering under paragraph (1), the Secretary  
15          may not change the original terms and conditions of  
16          the secured loan without the written consent of the  
17          obligor.

18          “(e) LOAN GUARANTEES.—

19          “(1) IN GENERAL.—The Secretary may provide  
20          a loan guarantee to a lender in lieu of making a se-  
21          cured loan if the Secretary determines that the  
22          budgetary cost of the loan guarantee is substantially  
23          the same as that of a secured loan.

24          “(2) TERMS.—The terms of a guaranteed loan  
25          shall be consistent with the terms set forth in this

1 section for a secured loan, except that the rate on  
2 the guaranteed loan and any prepayment features  
3 shall be negotiated between the obligor and the lend-  
4 er, with the consent of the Secretary.

5 **“§ 604. Lines of credit**

6 “(a) IN GENERAL.—

7 “(1) AGREEMENTS.—Subject to paragraphs (2)  
8 through (4), the Secretary may enter into agree-  
9 ments to make available lines of credit to 1 or more  
10 obligors in the form of direct loans to be made by  
11 the Secretary at future dates on the occurrence of  
12 certain events for any project selected under section  
13 602.

14 “(2) USE OF PROCEEDS.—The proceeds of a  
15 line of credit made available under this section shall  
16 be available to pay debt service on project obliga-  
17 tions issued to finance eligible project costs, extraor-  
18 dinary repair and replacement costs, operation and  
19 maintenance expenses, and costs associated with un-  
20 expected Federal or State environmental restrictions.

21 “(3) RISK ASSESSMENT.—Before entering into  
22 an agreement under this subsection, the Secretary,  
23 in consultation with the Director of the Office of  
24 Management and Budget and each rating agency  
25 providing a preliminary rating opinion letter under

1 section 602(b)(3), shall determine an appropriate  
2 capital reserve subsidy amount for each line of cred-  
3 it, taking into account the rating opinion letter.

4 “(4) INVESTMENT-GRADE RATING REQUIRE-  
5 MENT.—The funding of a line of credit under this  
6 section shall be contingent on the senior obligations  
7 of the project receiving an investment-grade rating  
8 from 2 rating agencies.

9 “(b) TERMS AND LIMITATIONS.—

10 “(1) IN GENERAL.—A line of credit under this  
11 section with respect to a project shall be on such  
12 terms and conditions and contain such covenants,  
13 representations, warranties, and requirements (in-  
14 cluding requirements for audits) as the Secretary de-  
15 termines appropriate.

16 “(2) MAXIMUM AMOUNTS.—The total amount  
17 of the line of credit shall not exceed 33 percent of  
18 the reasonably anticipated eligible project costs.

19 “(3) DRAWS.—Any draw on the line of credit  
20 shall represent a direct loan and shall be made only  
21 if net revenues from the project (including capital-  
22 ized interest but not including reasonably required  
23 financing reserves) are insufficient to pay the costs  
24 specified in subsection (a)(2).

1           “(4) INTEREST RATE.—Except as otherwise  
2           provided in subparagraphs (B) and (C) of section  
3           603(b)(4), the interest rate on a direct loan result-  
4           ing from a draw on the line of credit shall be not  
5           less than the yield on 30-year United States Treas-  
6           ury securities as of the date of execution of the line  
7           of credit agreement.

8           “(5) SECURITY.—The line of credit—

9           “(A) shall—

10           “(i) be payable, in whole or in part,  
11           from tolls, user fees, or other dedicated  
12           revenue sources that also secure the senior  
13           project obligations; and

14           “(ii) include a rate covenant, coverage  
15           requirement, or similar security feature  
16           supporting the project obligations; and

17           “(B) may have a lien on revenues de-  
18           scribed in subparagraph (A) subject to any lien  
19           securing project obligations.

20           “(6) PERIOD OF AVAILABILITY.—The full  
21           amount of the line of credit, to the extent not drawn  
22           upon, shall be available during the period beginning  
23           on the date of substantial completion of the project  
24           and ending not later than 10 years after that date.

25           “(7) RIGHTS OF THIRD-PARTY CREDITORS.—



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

5           “(B) ASSIGNMENT.—An obligor may as-  
6 sign the line of credit to 1 or more lenders or  
7 to a trustee on the behalf of the lenders.

8           “(8) NONSUBORDINATION.—

9           “(A) IN GENERAL.—Except as provided in  
10 subparagraphs (B) and (C), a direct loan under  
11 this section shall not be subordinated to the  
12 claims of any holder of project obligations in  
13 the event of bankruptcy, insolvency, or liquida-  
14 tion of the obligor.

15           “(B) PRE-EXISTING INDENTURE.—

16           “(i) IN GENERAL.—The Secretary  
17 shall waive subparagraph (A) for public  
18 agency borrowers that are financing ongo-  
19 ing capital programs and have outstanding  
20 senior bonds under a pre-existing inden-  
21 ture, if—

22           “(I) the line of credit is rated in  
23 the A-category or higher;

24           “(II) the TIFIA program loan  
25 resulting from a draw on the line of

1 credit is payable from pledged reve-  
2 nues not affected by project perform-  
3 ance, such as a tax-backed revenue  
4 pledge or a system-backed pledge of  
5 project revenues; and

6 “(III) the TIFIA program share  
7 of eligible project costs is 33 percent  
8 or less.

9 “(ii) LIMITATION.—If the Secretary  
10 waives the nonsubordination requirement  
11 under this subparagraph—

12 “(I) the maximum credit subsidy  
13 that will be paid by the Federal Gov-  
14 ernment shall be limited to 10 percent  
15 of the principal amount of the secured  
16 loan; and

17 “(II) the obligor shall be respon-  
18 sible for paying the remainder of the  
19 subsidy cost.

20 “(9) FEES.—The Secretary may establish fees  
21 at a level sufficient to cover all or a portion of the  
22 costs to the Federal Government of providing a line  
23 of credit under this section.

24 “(10) RELATIONSHIP TO OTHER CREDIT IN-  
25 STRUMENTS.—A project that receives a line of credit

1 under this section shall not also receive a secured  
2 loan or loan guarantee under section 603 in an  
3 amount that, combined with the amount of the line  
4 of credit, exceeds 49 percent of eligible project costs.

5 “(c) REPAYMENT.—

6 “(1) TERMS AND CONDITIONS.—The Secretary  
7 shall establish repayment terms and conditions for  
8 each direct loan under this section based on the pro-  
9 jected cash flow from project revenues and other re-  
10 payment sources, and the useful life of the asset  
11 being financed.

12 “(2) TIMING.—All repayments of principal or  
13 interest on a direct loan under this section shall be  
14 scheduled to commence not later than 5 years after  
15 the end of the period of availability specified in sub-  
16 section (b)(6) and to conclude, with full repayment  
17 of principal and interest, by the date that is 25  
18 years after the end of the period of availability speci-  
19 fied in subsection (b)(6).

20 **“§ 605. Program administration**

21 “(a) REQUIREMENT.—The Secretary shall establish  
22 a uniform system to service the Federal credit instruments  
23 made available under this chapter.

1       “(b) FEES.—The Secretary may collect and spend  
2 fees, contingent upon authority being provided in appro-  
3 priations Acts, at a level that is sufficient to cover—

4           “(1) the costs of services of expert firms re-  
5 tained pursuant to subsection (d); and

6           “(2) all or a portion of the costs to the Federal  
7 Government of servicing the Federal credit instru-  
8 ments.

9       “(c) SERVICER.—

10           “(1) IN GENERAL.—The Secretary may appoint  
11 a financial entity to assist the Secretary in servicing  
12 the Federal credit instruments.

13           “(2) DUTIES.—The servicer shall act as the  
14 agent for the Secretary.

15           “(3) FEE.—The servicer shall receive a serv-  
16 icing fee, subject to approval by the Secretary.

17       “(d) ASSISTANCE FROM EXPERT FIRMS.—The Sec-  
18 retary may retain the services of expert firms, including  
19 counsel, in the field of municipal and project finance to  
20 assist in the underwriting and servicing of Federal credit  
21 instruments.

22       **“§ 606. State and local permits**

23           “The provision of credit assistance under this chapter  
24 with respect to a project shall not—

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

4           “(2) limit the right of any unit of State or local  
5 government to approve or regulate any rate of re-  
6 turn on private equity invested in the project; or

7           “(3) otherwise supersede any State or local law  
8 (including any regulation) applicable to the construc-  
9 tion or operation of the project.

10 **“§ 607. Regulations**

11           “The Secretary may promulgate such regulations as  
12 the Secretary determines appropriate to carry out this  
13 chapter.

14 **“§ 608. Funding**

15           “(a) FUNDING.—

16           “(1) SPENDING AND BORROWING AUTHOR-  
17 ITY.—Spending and borrowing authority for a fiscal  
18 year to enter into Federal credit instruments shall  
19 be promptly apportioned to the Secretary on a fiscal  
20 year basis.

21           “(2) REESTIMATES.—When the estimated cost  
22 of a loan or loans is reestimated, the cost of the re-  
23 estimate shall be borne by or benefit the general  
24 fund of the Treasury, consistent with section 661e(f)  
25 of title 2, United States Code.

1           “(3) RURAL SET-ASIDE.—

2                   “(A) IN GENERAL.—Of the total amount  
3 of funds made available to carry out this chap-  
4 ter for each fiscal year, 10 percent shall be set  
5 aside for rural infrastructure projects.

6                   “(B) REOBLIGATION.—Any amounts set  
7 aside under subparagraph (A) that remain un-  
8 obligated by June 1 of the fiscal year for which  
9 the amounts were set aside shall be available  
10 for obligation by the Secretary on projects other  
11 than rural infrastructure projects.

12           “(4) REDISTRIBUTION OF AUTHORIZED FUND-  
13       ING.—

14                   “(A) IN GENERAL.—Beginning for the sec-  
15 ond fiscal year after the date of enactment of  
16 this paragraph, on August 1 of that fiscal year,  
17 and each fiscal year thereafter, if the unobli-  
18 gated and uncommitted balance of funding  
19 available exceeds 150 percent of the amount  
20 made available to carry out this chapter for  
21 that fiscal year, the Secretary shall distribute to  
22 the States the amount of funds and associated  
23 obligation authority in excess of that amount.

24                   “(B) DISTRIBUTION.—The amounts and  
25 obligation authority distributed under this para-

1 graph shall be distributed, in the same manner  
2 as obligation authority is distributed to the  
3 States for the fiscal year, based on the propor-  
4 tion that—

5 “(i) the relative share of each State of  
6 obligation authority for the fiscal year;  
7 bears to

8 “(ii) the total amount of obligation  
9 authority distributed to all States for the  
10 fiscal year.

11 “(C) PURPOSE.—Funds distributed under  
12 subparagraph (B) shall be available for any  
13 purpose described in section 133(c).

14 “(5) AVAILABILITY.—Amounts made available  
15 to carry out this chapter shall remain available until  
16 expended.

17 “(6) ADMINISTRATIVE COSTS.—Of the amounts  
18 made available to carry out this chapter, the Sec-  
19 retary may use not more than 1 percent for each fis-  
20 cal year for the administration of this chapter.

21 “(b) CONTRACT AUTHORITY.—

22 “(1) IN GENERAL.—Notwithstanding any other  
23 provision of law, execution of a term sheet by the  
24 Secretary of a Federal credit instrument that uses  
25 amounts made available under this chapter shall im-

1       pose on the United States a contractual obligation to  
2       fund the Federal credit investment.

3               “(2) AVAILABILITY.—Amounts made available  
4       to carry out this chapter for a fiscal year shall be  
5       available for obligation on October 1 of the fiscal  
6       year.

7       **“§ 609. Reports to Congress**

8               “On June 1, 2012, and every 2 years thereafter, the  
9       Secretary shall submit to Congress a report summarizing  
10      the financial performance of the projects that are receiv-  
11      ing, or have received, assistance under this chapter (other  
12      than section 610), including a recommendation as to  
13      whether the objectives of this chapter (other than section  
14      610) are best served—

15              “(1) by continuing the program under the au-  
16      thority of the Secretary;

17              “(2) by establishing a Federal corporation or  
18      federally sponsored enterprise to administer the pro-  
19      gram; or

20              “(3) by phasing out the program and relying on  
21      the capital markets to fund the types of infrastruc-  
22      ture investments assisted by this chapter (other than  
23      section 610) without Federal participation.”.



1 **SEC. 3003. STATE INFRASTRUCTURE BANKS.**

2 Section 610(d)(1)(A) of title 23, United States Code,  
3 is amended by striking “sections 104(b)(1)” and all that  
4 follows though the semicolon and inserting “paragraphs  
5 (1) and (2) of section 104(b)”.

6 **TITLE IV—HIGHWAY SPENDING**  
7 **CONTROLS**

8 **SEC. 4001. HIGHWAY SPENDING CONTROLS.**

9 (a) IN GENERAL.—Title 23, United States Code, is  
10 amended by adding at the end the following:

CHAPTER 7—HIGHWAY SPENDING CONTROLS

Sec.

701. Solvency of Highway Account of the Highway Trust Fund.

11 **“SEC. 701. SOLVENCY OF HIGHWAY ACCOUNT OF THE HIGH-**  
12 **WAY TRUST FUND.**

13 “(a) SOLVENCY CALCULATION FOR FISCAL YEAR  
14 2012.—Not later than 60 days after the date of enactment  
15 of the MAP–21, the Secretary, in consultation with the  
16 Secretary of Treasury, shall—

17 “(1) estimate the balance of the Highway Trust  
18 Fund (other than the Mass Transit Account) at the  
19 end of such fiscal year and the end of the next fiscal  
20 year, for purposes of which estimation the Secretary  
21 shall assume that the obligation limitation on Fed-  
22 eral-aid highways and highway safety construction  
23 programs is equal to the obligation limitations en-  
24 acted for those fiscal years in the MAP–21;

1           “(2) determine if the estimated balance of the  
2 Highway Trust Fund (other than the Mass Transit  
3 Account) would fall below—

4           “(A) \$2,000,000,000 at the end of the fis-  
5 cal year for which the obligation limitation is  
6 being distributed; or

7           “(B) \$1,000,000,000 at the end of the  
8 next fiscal year;

9           “(3) if either of the conditions in paragraph (1)  
10 would occur, calculate the amount by which the obli-  
11 gation limitation in the fiscal year for which the obli-  
12 gation limitation is being distributed must be re-  
13 duced to prevent such occurrence, for purposes of  
14 which calculation the Secretary shall assume that  
15 the obligation limitation on Federal-aid highways  
16 and highway safety construction programs for the  
17 next fiscal year is equal to the obligation limitation  
18 for the fiscal year for which the limitation is being  
19 distributed as reduced pursuant to this subpara-  
20 graph;

21           “(4) distribute such obligation limitation, less  
22 any amount determined under paragraph (3);

23           “(5) ensure that any obligation limitation that  
24 is withheld from distribution pursuant to paragraph

1 (3) shall lapse immediately following the distribution  
2 of obligation limitation under paragraph (4); and

3 “(6) upon the lapse of any obligation limitation  
4 under paragraph (5), reduce proportionately the  
5 amount of sums authorized to be appropriated from  
6 the Highway Trust Fund (other than the Mass  
7 Transit Account) for such fiscal year to carry out  
8 each of the Federal-aid highway and highway safety  
9 construction programs (other than emergency relief)  
10 by an aggregate amount equal to the amount deter-  
11 mined pursuant to such paragraph. The amounts  
12 withheld pursuant to this paragraph are perma-  
13 nently rescinded.

14 “(b) SOLVENCY CALCULATION FOR FISCAL YEAR  
15 2013 AND FISCAL YEARS THEREAFTER.—

16 “(1) ADJUSTMENT OF OBLIGATION LIMITA-  
17 TION.—Except as provided in paragraph (2), in dis-  
18 tributing the obligation limitation on Federal-aid  
19 highways and highway safety construction programs  
20 for fiscal year 2013 and each fiscal year thereafter,  
21 the Secretary shall—

22 “(A) estimate the balance of the Highway  
23 Trust Fund (other than the Mass Transit Ac-  
24 count) at the end of such fiscal year and the  
25 end of the next fiscal year, for purposes of

1           which estimation, the Secretary shall assume  
2           that the obligation limitation on Federal-aid  
3           highways and highway safety construction pro-  
4           grams for the next fiscal year is equal to the  
5           obligation limitation enacted for the fiscal year  
6           for which the limitation is being distributed;

7           “(B) determine if the estimated balance of  
8           the Highway Trust Fund (other than the Mass  
9           Transit Account) would fall below—

10                   “(i) \$2,000,000,000 at the end of the  
11                   fiscal year for which the obligation limita-  
12                   tion is being distributed; or

13                   “(ii) \$1,000,000,000 at the end of the  
14                   next fiscal year;

15           “(C) if either of the conditions in subpara-  
16           graph (B) would occur, calculate the amount by  
17           which the obligation limitation in the fiscal year  
18           for which the obligation limitation is being dis-  
19           tributed must be reduced to prevent such occur-  
20           rence; and

21           “(D) distribute such obligation limitation  
22           less any amount determined under subpara-  
23           graph (C).

24           “(2) LAPSE AND RESCISSION.—

25                   “(A) OBLIGATION LIMITATION.—

1           “(i) RECALCULATION.—In a fiscal  
2 year in which the Secretary withholds obli-  
3 gation limitation based on the calculation  
4 under paragraph (1), the Secretary shall,  
5 on March 1 of such fiscal year, repeat the  
6 calculations under subparagraphs (A)  
7 through (C) of such paragraph. Based on  
8 the results of those calculations, the Sec-  
9 retary shall—

10           “(I) if the Secretary determines  
11 that either of the conditions in para-  
12 graph (1)(B) would occur, withdraw  
13 an additional amount of obligation  
14 limitation necessary to prevent such  
15 occurrence; or

16           “(II) distribute as much of the  
17 withheld obligation limitation as may  
18 be distributed without causing either  
19 of the conditions specified in para-  
20 graph (1)(B) to occur.

21           “(ii) LAPSE.—Any obligation limita-  
22 tion that is enacted for a fiscal year, with-  
23 held from distribution pursuant to para-  
24 graph (1)(D) (or withdrawn under clause  
25 (i)(I)), and not subsequently distributed

1 under clause (i)(II) shall lapse immediately  
2 following the distribution of obligation lim-  
3 itation under such paragraph.

4 “(B) CONTRACT AUTHORITY.—

5 “(i) IN GENERAL.—Upon the lapse of  
6 any obligation limitation under subpara-  
7 graph (A)(ii), an equal amount of the un-  
8 obligated balances of funds apportioned  
9 among the States under chapter 1 and sec-  
10 tions 1116, 1303, and 1404 of the  
11 SAFETEA-LU (119 Stat. 1177, 1207,  
12 and 1228) are permanently rescinded. In  
13 administering the rescission required under  
14 this subparagraph, the Secretary shall  
15 allow each State to determine the amount  
16 of the required rescission to be drawn from  
17 the programs to which the rescission ap-  
18 plies, except as provided in clause (ii).

19 “(ii) RESCISSION OF FUNDS APPOR-  
20 TIONED IN FISCAL YEAR 2013 AND FISCAL  
21 YEARS THEREAFTER.—If a State deter-  
22 mines that it will meet any of its required  
23 rescission amount from funds apportioned  
24 to such State on or subsequent to October  
25 1, 2012, the Secretary shall determine the

1 amount to be rescinded from each of the  
2 programs subject to the rescission for  
3 which the State was apportioned funds on  
4 or subsequent to October 1, 2012, in pro-  
5 portion to the cumulative amount of appor-  
6 tionments that the State received for each  
7 such program on or subsequent to October  
8 1, 2012.

9 “(3) OTHER ACTIONS TO PREVENT INSOL-  
10 VENCY.—The Secretary shall issue a regulation to  
11 establish any actions in addition to those described  
12 in paragraph (1) that may be taken by the Secretary  
13 if it becomes apparent that the Highway Trust  
14 Fund (other than the Mass Transit Account) will be-  
15 come insolvent, including the denial of further obli-  
16 gations.

17 “(4) APPLICABLE ONLY TO FULL-YEAR LIMITA-  
18 TION.—The requirements of paragraph (1) apply  
19 only to the distribution of a full-year obligation limi-  
20 tation and do not apply to partial-year limitations  
21 under continuing appropriations Acts.”.

22 (b) TABLE OF CHAPTERS.—The table of chapters for  
23 title 23, United States Code, is amended by inserting after  
24 the item relating to chapter 6 the following:

“7. Highway Spending Controls ..... 701”.

