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

A BILL

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Moving Ahead for Progress in the 21st Century Act” or the “MAP–21”.

Calendar No. 311

112TH CONGRESS
2D SESSION

S. 1813

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

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

FEBRUARY 6, 2012

Reported by Mrs. Boxer, with amendments

[Omit the part struck through and insert the part printed in italic]
(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

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

TITLE I—FEDERAL-AID HIGHWAYS

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.
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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.
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Subtitle E—Miscellaneous

Sec. 1501. Program efficiencies.
Sec. 1502. Project approval and oversight.
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Sec. 1507. Transferability of Federal-aid highway funds.
Sec. 1508. Special permits during periods of national emergency.
Sec. 1509. Electric vehicle charging stations.
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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.
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Sec. 1517. Rescissions.
Sec. 1518. State autonomy for culvert pipe selection.
Sec. 1519. Effective and significant performance measures.
Sec. 1520. Requirements for eligible bridge projects.

TITLE II—RESEARCH AND EDUCATION

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Sec. 2202. Surface transportation research, development, and technology.
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Sec. 2206. International highway transportation program.
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Sec. 2302. Goals and purposes.
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Sec. 2304. Research and development.
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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.

In this Act, the following definitions apply:

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

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

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorizations and Programs

SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.

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

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

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

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

(2) Transportation Infrastructure Finance and Innovation Program.—For credit assistance under the transportation infrastructure finance and innovation program under chapter 6 of title 23, United States Code, $1,000,000,000 for each of fiscal years 2012 and 2013.

(3) Federal Lands and Tribal Transportation Programs.—

(A) Tribal Transportation Program.—For the tribal transportation program under section 202 of title 23, United States Code, $450,000,000 for each of fiscal years 2012 and 2013.

(B) Federal Lands Transportation Program.—For the Federal lands transpor-
station program under section 203 of title 23, United States Code, $300,000,000 for each of fiscal years 2012 and 2013, of which $260,000,000 of the amount made available for each fiscal year shall be the amount for the National Park Service and the United States Fish and Wildlife Service.

(C) FEDERAL LANDS ACCESS PROGRAM.—For the Federal lands access program under section 204 of title 23, United States Code, $250,000,000 for each of fiscal years 2012 and 2013.

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

(b) DISADVANTAGED BUSINESS ENTERPRISES.—

(1) DEFINITIONS.—In this subsection, the following definitions apply:

(A) SMALL BUSINESS CONCERN.—

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

(ii) **Exclusions.**—The term “small business concern” does not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals that have average annual gross receipts during the preceding 3 fiscal years in excess of $22,410,000, as adjusted annually by the Secretary for inflation.

(B) **Socially and economically disadvantaged individuals.**—The term “socially and economically disadvantaged individuals” means—

(i) women; and

(ii) any other socially and economically disadvantaged individuals (as the term is used in section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant to that Act).

(2) **Amounts for small business concerns.**—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the
amounts made available for any program under titles I, II, and III of this Act and section 403 of title 23, United States Code, shall be expended through small business concerns owned and controlled by socially and economically disadvantaged individuals.

(3) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually—

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

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

(i) women;

(ii) socially and economically disadvantaged individuals (other than women); and

(iii) individuals who are women and are otherwise socially and economically disadvantaged individuals.

(4) UNIFORM CERTIFICATION.—

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

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

(i) on-site visits;
(ii) personal interviews with personnel;
(iii) issuance or inspection of licenses;
(iv) analyses of stock ownership;
(v) listings of equipment;
(vi) analyses of bonding capacity;
(vii) listings of work completed;
(viii) examination of the resumes of principal owners;
(ix) analyses of financial capacity; and
(x) analyses of the type of work preferred.

(5) REPORTING.—The Secretary shall establish minimum requirements for use by State governments in reporting to the Secretary—

(A) information concerning disadvantaged business enterprise awards, commitments, and achievements; and
(B) such other information as the Secretary determines to be appropriate for the proper monitoring of the disadvantaged business enterprise program.

(6) COMPLIANCE WITH COURT ORDERS.—Nothing in this subsection limits the eligibility of an individual or entity to receive funds made available under titles I, II, and III of this Act and section 403 of title 23, United States Code, if the entity or person is prevented, in whole or in part, from complying with paragraph (2) because a Federal court issues a final order in which the court finds that a requirement or the implementation of paragraph (2) is unconstitutional.

SEC. 1102. OBLIGATION CEILING.

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

(1) $41,564,000,000 for fiscal year 2012; and
(2) $42,227,000,000 for fiscal year 2013.

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

(1) section 125 of title 23, United States Code;
(2) section 147 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 144 note; 92 Stat. 2714);

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

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

(5) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 198);

(6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027);

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

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

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

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

(11) section 1603 of the Safe, Accountable, 
Flexible, Efficient Transportation Equity Act: A 
Legacy for Users (119 Stat. 1248), to the extent 
that funds obligated in accordance with that section 
were not subject to a limitation on obligations at the 
time at which the funds were initially made available 
for obligation; and

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

(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—
For each of fiscal years 2012 through 2013, the Sec- 
retary—

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

(A) amounts authorized for administrative 
expenses and programs by section 104(a) of 
title 23, United States Code; and
(B) amounts authorized for the Bureau of Transportation Statistics;

(2) shall not distribute an amount of obligation authority provided by subsection (a) that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety construction programs for previous fiscal years the funds for which are allocated by the Secretary;

(3) shall determine the proportion that—

(A) the obligation authority provided by subsection (a) for the fiscal year, less the aggregate of amounts not distributed under paragraphs (1) and (2) of this subsection; bears to

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

(4) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2), for each of the programs that are allocated by the Secretary under this Act and title 23, United States Code (other than to programs to which paragraph (1) applies), by multiplying—

(A) the proportion determined under paragraph (3); by

(B) the amounts authorized to be appropriated for each such program for the fiscal year; and

(5) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2) and the amounts distributed under paragraph (4), for Federal-aid highway and highway safety construction programs that are apportioned by the Secretary under title 23, United States Code (other than the amounts apportioned for the national highway performance program in section 119 of title 23, United States Code, that are exempt from the limitation under subsection (b)(12)) in the proportion that—
(A) amounts authorized to be appropriated for the programs that are apportioned under title 23, United States Code, to each State for the fiscal year; bears to

(B) the total of the amounts authorized to be appropriated for the programs that are apportioned under title 23, United States Code, to all States for the fiscal year.

(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (c), the Secretary shall, after August 1 of each of fiscal years 2012 through 2013—

(1) revise a distribution of the obligation authority made available under subsection (c) if an amount distributed cannot be obligated during that fiscal year; and

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

(e) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—
(1) **IN GENERAL.**—Except as provided in paragraph (2), obligation limitations imposed by subsection (a) shall apply to contract authority for transportation research programs carried out under—

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

(B) title II of this Act.

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

(A) remain available for a period of 4 fiscal years; and

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

(f) **REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.**—

(1) **IN GENERAL.**—Not later than 30 days after the date of distribution of obligation authority under subsection (e) for each of fiscal years 2012 through 2013, the Secretary shall distribute to the States any funds that—
(A) are authorized to be appropriated for
the fiscal year for Federal-aid highway pro-
grams; and

(B) the Secretary determines will not be
allocated to the States, and will not be available
for obligation, for the fiscal year because of the
imposition of any obligation limitation for the
fiscal year.

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

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

SEC. 1103. DEFINITIONS.

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

(1) by striking paragraphs (6), (7), (9), (12),
(19), (20), (24), (25), (26), (28), (38), and (39);
(2) by redesignating paragraphs (2), (3), (4),
(5), (8), (13), (14), (15), (16), (17), (18), (21),
(22), (23), (27), (29), (30), (31), (32), (33), (34),
(35), (36), and (37) as paragraphs (3), (4), (5), (6),
(9), (12), (13), (14), (15), (16), (17), (18), (19),
(20), (21), (22), (23), (24), (25), (26), (28), (29),
(33), and (34), respectively;

(3) by inserting after paragraph (1) the fol-
1owing:

“(2) ASSET MANAGEMENT.—The term ‘asset
management’ means a strategic and systematic proc-
ess of operating, maintaining, and improving phys-
ical assets, with a focus on both engineering and
economic analysis based upon quality information, to
identify a structured sequence of maintenance, pres-
ervation, repair, rehabilitation, and replacement ac-
tions that will achieve and sustain a desired state of
good repair over the lifecycle of the assets at min-
imum practicable cost.”;

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

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

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

“(A) preliminary engineering, engineering,
and design-related services directly relating to
the construction of a highway project, including
engineering, design, project development and management, construction project management and inspection, surveying, mapping (including the establishment of temporary and permanent geodetic control in accordance with specifications of the National Oceanic and Atmospheric Administration), and architectural-related services;”;

(C) in subparagraph (B)—

(i) by inserting “reconstruction,” before “resurfacing”; and

(ii) by striking “and rehabilitation” and inserting “rehabilitation, and preservation”;

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

(E) in subparagraph (F) by striking “obstacles” and inserting “hazards”.

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

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

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

(6) by inserting after paragraph (6) (as so redesignated) the following:
“(7) Federal lands access transportation facility.—The term ‘Federal lands access transportation facility’ means a public highway, road, bridge, trail, or transit system that is located on, is adjacent to, or provides access to Federal lands for which title or maintenance responsibility is vested in a State, county, town, township, tribal, municipal, or local government.

“(8) Federal lands transportation facility.—The term ‘Federal lands transportation facility’ means a public highway, road, bridge, trail, or transit system that is located on, is adjacent to, or provides access to Federal lands for which title and maintenance responsibility is vested in the Federal Government, and that appears on the national Federal lands transportation facility inventory described in section 203(c).”;

(7) in paragraph (11)(B) by inserting “including public roads on dams” after “drainage structure”;

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

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

(B) by inserting “air quality” before “attainment area”;
(9) in paragraph (18) (as so redesignated) by striking “an undertaking to construct a particular portion of a highway, or if the context so implies, the particular portion of a highway so constructed or any other undertaking” and inserting “any undertaking”;

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

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

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

(11) by striking paragraph (23) (as so redesignated) and inserting the following:

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

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

“(27) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term ‘State strategic highway safety plan’ means...
plan’ has the same meaning given such term in section 148(a).”;

(13) by striking paragraph (29) (as so redesignated) and inserting the following:

“(29) TRANSPORTATION ENHANCEMENT ACTIVITY.—The term ‘transportation enhancement activity’ means any of the following activities when carried out as part of any program or project authorized or funded under this title, or as an independent program or project related to surface transportation:

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

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

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

“(D) Scenic or historic highways and bridges.

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

“(F) Historic preservation, rehabilitation, and operation of historic transportation buildings, structures, or facilities.
“(G) Preservation of abandoned railway corridors, including the conversion and use of the corridors for pedestrian or bicycle trails.

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

“(I) Archaeological planning and research.

“(J) Any environmental mitigation activity, including pollution prevention and pollution abatement activities and mitigation to—

“(i) to address stormwater management, control, and water pollution prevention or abatement related to highway construction or due to highway runoff, including activities described in sections 133(b)(11), 328(a), and 329; or

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

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

“(30) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

“(A) IN GENERAL.—The term ‘transportation systems management and operations’
means integrated strategies to optimize the performance of existing infrastructure through the implementation of multimodal and intermodal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve security, safety, and reliability of the transportation system.

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

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

“(ii) coordination of the implementation of regional transportation system management and operations investments
(such as traffic incident management, traveler information services, emergency management, roadway weather management, intelligent transportation systems, communication networks, and information sharing systems) requiring agreements, integration, and interoperability to achieve targeted system performance, reliability, safety, and customer service levels.

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

“(32) TRUCK STOP ELECTRIFICATION SYSTEM.—The term ‘truck stop electrification system’ means a system that delivers heat, air conditioning, electricity, or communications to a heavy-duty vehicle.”.

(b) SENSE OF CONGRESS.—Section 101(c) of title 23, United States Code, is amended by striking “system” and inserting “highway”.
SEC. 1104. NATIONAL HIGHWAY SYSTEM.

(a) In General.—Section 103 of title 23, United States Code, is amended to read as follows:

"§ 103. National highway system

“(a) In General.—For the purposes of this title, the Federal-aid system is the National Highway System, which includes the Interstate System.

“(b) National Highway System.—

“(1) Description.—The National Highway System consists of the highway routes and connections to transportation facilities that shall—

“(A) serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and other major travel destinations;

“(B) meet national defense requirements; and

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

“(2) Components.—The National Highway System described in paragraph (1) consists of the following:

“(A) The National Highway System depicted on the map submitted by the Secretary of Transportation to Congress with the report
entitled ‘Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals’ and dated May 24, 1996, and modifications approved by the Secretary before the date of enactment of the MAP–21.

“(B) Other urban and rural principal arterial routes, and border crossings on those routes, that were not included on the National Highway System before the date of enactment of the MAP–21.

“(C) Other connector highways (including toll facilities) that provide motor vehicle access between arterial routes on the National Highway System and a major intermodal transportation facility that was not included on the National Highway System before the date of enactment of the MAP–21.

“(D) A strategic highway network that—
“(i) consists of a network of highways that are important to the United States strategic defense policy, that provide defense access, continuity, and emergency capabilities for the movement of personnel, materials, and equipment in both peacetime and wartime, and that were not included on the National Highway System before the date of enactment of the MAP–21;

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

“(iii) shall be designated by the Secretary, in consultation with appropriate Federal agencies and the States.

“(E) Major strategic highway network connectors that—

“(i) consist of highways that provide motor vehicle access between major military installations and highways that are part of the strategic highway network but were not included on the National Highway System before the date of enactment of the MAP–21; and
“(ii) shall be designated by the Secretary, in consultation with appropriate Federal agencies and the States.

“(3) MODIFICATIONS TO NHS.—

“(A) IN GENERAL.—The Secretary may make any modification, including any modification consisting of a connector to a major intermodal terminal, to the National Highway System that is proposed by a State if the Secretary determines that the modification—

“(i) meets the criteria established for the National Highway System under this title after the date of enactment of the MAP–21; and

“(ii) enhances the national transportation characteristics of the National Highway System.

“(B) COOPERATION.—

“(i) IN GENERAL.—In proposing a modification under this paragraph, a State shall cooperate with local and regional officials.

“(ii) URBANIZED AREAS.—In an urbanized area, the local officials shall act through the metropolitan planning organi-
zation designated for the area under section 134.

“(c) Interstate System.—

“(1) Description.—

“(A) In general.—The Dwight D. Eisenhower National System of Interstate and Defense Highways within the United States (including the District of Columbia and Puerto Rico) consists of highways designed, located, and selected in accordance with this paragraph.

“(B) Design.—

“(i) In general.—Except as provided in clause (ii), highways on the Interstate System shall be designed in accordance with the standards of section 109(b).

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

“(C) Location.—Highways on the Interstate System shall be located so as—
“(i) to connect by routes, as direct as practicable, the principal metropolitan areas, cities, and industrial centers;

“(ii) to serve the national defense; and

“(iii) to the maximum extent practicable, to connect at suitable border points with routes of continental importance in Canada and Mexico.

“(D) SELECTION OF ROUTES.—To the maximum extent practicable, each route of the Interstate System shall be selected by joint action of the State transportation departments of the State in which the route is located and the adjoining States, in cooperation with local and regional officials, and subject to the approval of the Secretary.

“(2) MAXIMUM MILEAGE.—The mileage of highways on the Interstate System shall not exceed 43,000 miles, exclusive of designations under paragraph (4).

“(3) MODIFICATIONS.—The Secretary may approve or require modifications to the Interstate System in a manner consistent with the policies and procedures established under this subsection.

“(4) INTERSTATE SYSTEM DESIGNATIONS.—
“(A) ADDITIONS.—If the Secretary determines that a highway on the National Highway System meets all standards of a highway on the Interstate System and that the highway is a logical addition or connection to the Interstate System, the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a route on the Interstate System.

“(B) DESIGNATIONS AS FUTURE INTERSTATE SYSTEM ROUTES.—

“(i) IN GENERAL.—Subject to clauses (ii) through (vi), if the Secretary determines that a highway on the National Highway System would be a logical addition or connection to the Interstate System and would qualify for designation as a route on the Interstate System under subparagraph (A) if the highway met all standards of a highway on the Interstate System, the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a future Interstate System route.
“(ii) Written agreement.—A designation under clause (i) shall be made only upon the written agreement of each State described in that clause that the highway will be constructed to meet all standards of a highway on the Interstate System by not later than the date that is 25 years after the date of the agreement.

“(iii) Failure to complete construction.—If a State described in clause (i) has not substantially completed the construction of a highway designated under this subparagraph by the date specified in clause (ii), the Secretary shall remove the designation of the highway as a future Interstate System route.

“(iv) Effect of removal.—Removal of the designation of a highway under clause (iii) shall not preclude the Secretary from designating the highway as a route on the Interstate System under subparagraph (A) or under any other provision of law providing for addition to the Interstate System.
“(v) Retrospective Effect.—An agreement described in clause (ii) that is entered into before August 10, 2005, shall be deemed to include the 25-year time limitation described in that clause, regardless of any earlier construction completion date in the agreement.

“(vi) References.—No law, rule, regulation, map, document, or other record of the United States, or of any State or political subdivision of a State, shall refer to any highway designated as a future Interstate System route under this subparagraph, and no such highway shall be signed or marked, as a highway on the Interstate System, until such time as the highway—

“(I) is constructed to the geometric and construction standards for the Interstate System; and

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

“(C) Financial Responsibility.—Except as provided in this title, the designation of a highway under this paragraph shall create no
additional Federal financial responsibility with respect to the highway.

“(5) Exemption of Interstate System.—

“(A) In general.—Except as provided in subparagraph (B), the Interstate System shall not be considered to be a historic site under section 303 of title 49 or section 138 of this title, regardless of whether the Interstate System or portions or elements of the Interstate System are listed on, or eligible for listing on, the National Register of Historic Places.

“(B) Individual elements.—Subject to subparagraph (C)—

“(i) the Secretary shall determine, through the administrative process established for exempting the Interstate System from section 106 of the National Historic Preservation Act (16 U.S.C. 470f), those individual elements of the Interstate System that possess national or exceptional historic significance (such as a historic bridge or a highly significant engineering feature); and

“(ii) those elements shall be considered to be historic sites under section 303
of title 49 or section 138 of this title, as applicable.

“(C) Construction, maintenance, restoration, and rehabilitation activities.—Subparagraph (B) does not prohibit a State from carrying out construction, maintenance, preservation, restoration, or rehabilitation activities for a portion of the Interstate System referred to in subparagraph (B) upon compliance with section 303 of title 49 or section 138 of this title, as applicable, and section 106 of the National Historic Preservation Act (16 U.S.C. 470f).

“(d) Operation of Conventional Combination Vehicles on the National Highway System.—

“(1) Definition of conventional combination vehicles.—In this subsection, the term ‘conventional combination vehicles’ means—

“(A) truck-tractor or semi-trailer combinations with semi-trailers up to 53 feet in length and 102 inches in width;

“(B) truck-tractor, semi-trailer, or trailer combinations with each semi-trailer and trailer up to 28.5 feet in length and 102 inches in width; and
“(C) drive-away saddlemount combinations, not to exceed 97 feet in overall length, with up to 3 truck tractors, with or without a full mount, towed by a truck tractor.

“(2) NATIONAL NETWORK.—The National Network designated under the Surface Transportation Assistance Act of 1982 (Public Law 97–424; 96 Stat. 2119) is repealed.

“(3) OPERATION OF CONVENTIONAL COMBINATION VEHICLES.—

“(A) REQUIREMENT.—Conventional combination vehicles shall be permitted to operate in all States on all segments of the National Highway System other than segments—

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

“(ii) on which all nonpassenger commercial motor vehicles are banned on the date of enactment of the MAP–21.

“(B) RESTRICTIONS.—A State may request temporary or permanent restrictions on the operation of conventional combination vehicles, subject to approval by the Secretary, based on safety considerations, geometric constraints,
work zones, weather, or traffic management requirements of special events or emergencies.

“(C) Reasonable access.—Conventional combination vehicles shall be given reasonable access, by the most reasonable, practicable, and safe route available, subject to review by the Secretary—

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

“(ii) to terminal locations for the unloading and loading of cargo.”.

(b) Conforming Amendments.—

(b) Inclusion of Certain Route Segments on Interstate System.—

(1) In general.—Section 1105(e)(5)(A) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032; 109 Stat. 597) is amended by striking “and subsections (c)(18) and (c)(20)” and inserting “, in subsections (c)(18) and (c)(20), and in subparagraphs (A)(iii) and (B) of subsection (c)(26)”.

(2) Route designation.—Section 1105(e)(5)(C)(i) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032; 109
Stat. 598) is amended by adding at the end the following: “The routes referred to subparagraphs (A)(iii) and (B)(i) of subsection (c)(26) are designated as Interstate Route I-11.”

(c) CONFORMING AMENDMENTS.—

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

“103. National highway system.”

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

(A) in subsection (a) by striking “the Federal-aid systems” and inserting “Federal-aid highways”; and

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

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

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

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

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

SEC. 1105. APPORTIONMENT.

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

“§ 104. Apportionment

“(a) ADMINISTRATIVE EXPENSES.—

“(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to be made available to the Secretary for administrative expenses of the Federal Highway Administration $480,000,000 for each of fiscal years 2012 and 2013.

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

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

“(B) to make transfers of such sums as the Secretary determines to be appropriate to the Appalachian Regional Commission for administrative activities associated with the Appalachian development highway system; and

“(C) to reimburse, as appropriate, the Office of Inspector General of the Department of Transportation for the conduct of annual audits of financial statements in accordance with section 3521 of title 31.

“(3) AVAILABILITY.—The amounts made available under paragraph (1) shall remain available until expended.

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

“(1) NATIONAL HIGHWAY PERFORMANCE PROGRAM.—For the national highway performance pro-
gram, 58 percent of the amount remaining after distributing amounts under paragraphs (4) and (6).

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

“(3) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program, 7 percent of the amount remaining after distributing amounts under paragraphs (4) and (6).

“(4) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program, an amount determined by multiplying the amount determined for the State under subsection (c) by the proportion that—

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

“(B) the total amount of funds apportioned to the State for that fiscal year for the programs referred to in section 105(a)(2) (ex-
cept for the high priority projects program referred to in section 105(a)(2)(H)), as in effect on the day before the date of enactment of the MAP–21.

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

“(6) METROPOLITAN PLANNING.—To carry out section 134, an amount determined by multiplying the amount determined for the State under subsection (c) by the proportion that—

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

“(B) the total amount of funds apportioned to the State for that fiscal year for the programs referred to in section 105(a)(2) (except for the high priority projects program referred to in section 105(a)(2)(H)), as in effect on the day before the date of enactment of the MAP–21.

“(c) CALCULATION OF STATE AMOUNTS.—

“(1) STATE SHARE.—The amount for each State of combined apportionments for the national
highway performance program under section 119, the transportation mobility program under section 133, the highway safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, the national freight program under section 167, and to carry out section 134 shall be determined as follows:

“(A) Initial Amount.—The initial amount for each State shall be determined by multiplying the total amount available for apportionment by the share for each State which shall be equal to the proportion that—

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

“(ii) the amount of those apportionments and allocations received by all States for those fiscal years.

“(B) Adjustments to Amounts.—The initial amounts resulting from the calculation under subparagraph (A) shall be adjusted to ensure that, for each State, the amount of combined apportionments for the programs shall not be less than 95 percent of the estimated tax payments attributable to highway users in the
State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available.

“(2) STATE APPORTIONMENT.—On October 1 of each fiscal year, the Secretary shall apportion the sum authorized to be appropriated for expenditure on the national highway performance program under section 119, the transportation mobility program under section 133, the highway safety improvement program under section 148, the congestion mitigation and air quality improvement program under section 149, the national freight program under section 167, and to carry out section 134 in accordance with paragraph (1).

“(d) METROPOLITAN PLANNING.—

“(1) USE OF AMOUNTS.—

“(A) USE.—

“(i) IN GENERAL.—Except as provided in clause (ii), the amounts apportioned to a State under subsection (b)(6) shall be made available by the State to the metropolitan planning organizations responsible for carrying out section 134 in the State.
“(ii) States receiving minimum apportionment.—A State that received the minimum apportionment for use in carrying out section 134 for fiscal year 2009 may, subject to the approval of the Secretary, use the funds apportioned under subsection (b)(6) to fund transportation planning outside of urbanized areas.

“(B) Unused funds.—Any funds that are not used to carry out section 134 may be made available by a metropolitan planning organization to the State to fund activities under section 135.

“(2) Distribution of amounts within states.—

“(A) In general.—The distribution within any State of the planning funds made available to organizations under paragraph (1) shall be in accordance with a formula that—

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

“(ii) takes into consideration, at a minimum, population, status of planning, attainment of air quality standards, metropolitan area transportation needs, and
other factors necessary to provide for an appropriate distribution of funds to carry out section 134 and other applicable requirements of Federal law.

"(B) Reimbursement.—Not later than 40 days 15 business days after the date of receipt by a State of a request for reimbursement of expenditures made by a metropolitan planning organization for carrying out section 134, the State shall reimburse, from amounts distributed under this paragraph to the metropolitan planning organization by the State, the metropolitan planning organization for those expenditures.

"(3) Determination of population figures.—For the purpose of determining population figures under this subsection, the Secretary shall use the latest available data from the decennial census conducted under section 141(a) of title 13, United States Code.

"(e) Certification of apportionments.—

"(1) In general.—The Secretary shall—

"(A) on October 1 of each fiscal year, certify to each of the State transportation departments the amount that has been apportioned to
the State under this section for the fiscal year;
and

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

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

“(3) APPORTIONMENT CALCULATIONS.—

“(A) IN GENERAL.—The calculation of of-
ficial apportionments of funds to the States
under this title is a primary responsibility of
the Department and shall be carried out only by employees (and not contractors) of the Department.

“(B) Prohibition on use of funds to hire contractors.—None of the funds made available under this title shall be used to hire contractors to calculate the apportionments of funds to States.

“(f) Transfer of highway and transit funds.—

“(1) Transfer of highway funds for transit projects.—

“(A) In general.—Subject to subparagraph (B), amounts made available for transit projects or transportation planning under this title may be transferred to and administered by the Secretary in accordance with chapter 53 of title 49.

“(B) Non-Federal share.—The provisions of this title relating to the non-Federal share shall apply to the amounts transferred under subparagraph (A).

“(2) Transfer of transit funds for highway projects.—
“(A) In General.—Subject to subparagraph (B), amounts made available for highway projects or transportation planning under chapter 53 of title 49 may be transferred to and administered by the Secretary in accordance with this title.

“(B) Non-Federal Share.—The provisions of chapter 53 of title 49 relating to the non-Federal share shall apply to amounts transferred under subparagraph (A).

“(3) Transfer of Funds Among States or to Federal Highway Administration.—

“(A) In General.—Subject to subparagraph (B), the Secretary may, at the request of a State, transfer amounts apportioned or allocated under this title to the State to another State, or to the Federal Highway Administration, for the purpose of funding 1 or more projects that are eligible for assistance with amounts so apportioned or allocated.

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

“(C) Funds Suballocated to Urbanized Areas.—Amounts that are apportioned or
allocated to a State under subsection (b)(3) (as in effect on the day before the date of enactment of the MAP–21) or subsection (b)(2) and attributed to an urbanized area of a State with a population of more than 200,000 individuals under section 133(d) may be transferred under this paragraph only if the metropolitan planning organization designated for the area concurs, in writing, with the transfer request.

“(4) Transfer of obligation authority.— Obligation authority for amounts transferred under this subsection shall be transferred in the same manner and amount as the amounts for the projects that are transferred under this subsection.

“(g) Report to Congress.—For each fiscal year, the Secretary shall make available to the public, in a user-friendly format via the Internet, a report that describes—

“(1) the amount obligated, by each State, for Federal-aid highways and highway safety construction programs during the preceding fiscal year;

“(2) the balance, as of the last day of the preceding fiscal year, of the unobligated apportionment of each State by fiscal year under this section;
“(3) the balance of unobligated sums available for expenditure at the discretion of the Secretary for such highways and programs for the fiscal year; and

“(4) the rates of obligation of funds apportioned or set aside under this section, according to—

“(A) program;

“(B) funding category of subcategory;

“(C) type of improvement;

“(D) State; and

“(E) sub-State geographical area, including urbanized and rural areas, on the basis of the population of each such area.”.

(b) Conforming Amendment.—Section 146(a) of title 23, United States Code, is amended by striking “sections 104(b)(1) and 104(b)(3)” and inserting “section 104(b)(2)”.

SEC. 1106. NATIONAL HIGHWAY PERFORMANCE PROGRAM.

(a) In General.—Section 119 of title 23, United States Code, is amended to read as follows:

“§ 119. National highway performance program

“(a) Establishment.—The Secretary shall establish and implement a national highway performance program under this section.

“(b) Purposes.—The purposes of the national highway performance program shall be—
“(1) to provide support for the condition and performance of the National Highway System; and

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

“(2) to ensure that investments of Federal-aid funds in highway construction are directed to support progress toward the achievement of performance targets for infrastructure condition and performance.

“(c) Eligible Facilities.—Except as provided in subsection (d), to be eligible for funding apportioned under section 104(b)(1) to carry out this section, a facility shall be located on the National Highway System, as defined in section 103.

“(d) Eligible Projects.—Funds apportioned to a State to carry out the national highway performance program may be obligated only for a project on an eligible facility that is—

“(1) a project, or is part of a program of projects, supporting progress toward the achievement of national performance goals for improving infrastructure condition, safety, mobility, or freight movement on the National Highway System and consistent with sections 134 and 135; and
“(2) for 1 or more of the following purposes:

“(A) Construction, reconstruction, resurfacing, restoration, rehabilitation, preservation, or operational improvement of segments of the National Highway System.

“(B) Construction, replacement (including replacement with fill material), rehabilitation, preservation, and protection (including scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) of bridges on the National Highway System.

“(C) Construction, replacement (including replacement with fill material), rehabilitation, preservation, and protection (including impact protection measures, security countermeasures, and protection against extreme events) of tunnels on the National Highway System.

“(D) Inspection and evaluation, as described in section 144, of bridges and tunnels on the National Highway System, and inspection and evaluation of other highway infrastructure assets on the National Highway System, including signs and sign structures, earth retaining walls, and drainage structures.
“(E) Training of bridge and tunnel inspectors, as described in section 144.

“(F) Construction, rehabilitation, or replacement of existing ferry boats and ferry boat facilities, including approaches, that connect road segments of the National Highway System.

“(G) Construction, reconstruction, resurfacing, restoration, rehabilitation, and preservation of, and operational improvements for, a Federal-aid highway not on the National Highway System, and construction of a transit project eligible for assistance under chapter 53 of title 49, if—

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

“(ii) the construction or improvements will enhance the level of service reduce delays or produce travel time savings on the fully access-controlled highway described in clause (i) and improve regional traffic flow; and
“(iii) the construction or improvements are more cost-effective, as determined by benefit-cost analysis, than an improvement to the fully access-controlled highway described in clause (i).

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

“(I) Highway safety improvements for segments of the National Highway System.

“(J) Capital and operating costs for traffic and traveler information monitoring, management, and control facilities and programs.

“(K) Development and implementation of a State asset management plan for the National Highway System in accordance with this section, including data collection, maintenance, and integration and the cost associated with obtaining, updating, and licensing software and equipment required for risk-based asset management and performance-based management.

“(L) Infrastructure-based intelligent transportation systems capital improvements.

“(M) Environmental restoration and pollution abatement in accordance with section 328.
“(N) Control of noxious weeds and aquatic noxious weeds and establishment of native spe-
cies in accordance with section 329.

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

“(i) contributions to those mitigation efforts may—

“(I) take place concurrent with or in advance of project construction;

and

“(II) occur in advance of project construction only if the efforts are
consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes; and

“(ii) with respect to participation in a natural habitat or wetland mitigation effort relating to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference is given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with applicable Federal law (including regulations).

“(e) LIMITATION ON NEW CAPACITY.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the maximum amount that a State may obligate under this section for projects under subsection (d)(2)(G) and that is attributable to the portion of the cost of any project undertaken to expand the capacity of eligible facilities on the National Highway System, in a case in which the new capacity consists of 1 or more new travel lanes that are not high-occupancy vehicle lanes, shall not, in total,
exceed 40 percent of the combined apportionments
of a State under section 104(b)(1) for the most re-
cent 3 consecutive fiscal years.

“(2) Exception.—Paragraph (1) shall not
apply to a project for the construction of auxiliary
lanes and turning lanes or widening of a bridge dur-
ing rehabilitation or replacement to meet current
geometric, construction, and structural standards for
the types and volumes of projected traffic over the
design life of the project.

“(f) State Performance Management.—

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

“(2) Performance Driven Plan.—A State
asset management plan shall include strategies lead-
ing to a program of projects that would make
progress toward achievement of the State targets for
asset condition and performance of the National
Highway System in accordance with paragraph (5)
and, to the maximum extent practicable, reflect the
and supporting the progress toward the achievement of the national goals identified in section 150.

“(3) PLAN CONTENTS.—A State asset management plan shall, at a minimum, be in a form that the Secretary determines to be appropriate and include—

“(A) a summary listing of the highway infrastructure pavement and bridge assets on the National Highway System in the State, including a description of the condition of those assets;

“(B) asset management objectives and measures;

“(C) performance gap identification;

“(D) lifecycle cost and risk management analysis;

“(E) a financial plan; and

“(F) investment strategies.

“(4) STANDARDS AND MEASURES.—Not later than 18 months after the date of enactment of the MAP–21, the Secretary shall, by regulation and in consultation with State departments of transportation and other stakeholders, establish—
(A) minimum standards for States to use in developing and operating pavement management systems and bridge management systems;

(B) measures for States to use to assess—

(i) the condition of pavements on the Interstate system;

(ii) the condition of pavements on the National Highway System (excluding the Interstate);

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

(iv) the performance of the Interstate System; and

(v) the performance of the National Highway System (excluding the Interstate System);

(C) the data elements that are necessary to collect and maintain data, and a standardized process for collection and sharing of data with appropriate governmental entities at the Federal, State, and local levels (including metropolitan planning organizations); to carry out paragraph (5); and

(D) minimum levels for—
“(i) the condition of pavement on the Interstate System; and

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

“(4) STANDARDS AND MEASURES.—

“(A) IN GENERAL.—Subject to subparagraph (B), not later than 18 months after the date of enactment of the MAP–21, the Secretary shall, in consultation with State departments of transportation and other stakeholders, establish—

“(i) minimum standards for States to use in developing and operating pavement management systems and bridge management systems;

“(ii) measures for States to use to assess—

“(I) the condition of pavements on the Interstate system;

“(II) the condition of pavements on the National Highway System (excluding the Interstate);

“(III) the condition of bridges on the National Highway System;
“(IV) the performance of the Interstate System; and
“(V) the performance of the National Highway System (excluding the Interstate System);
“(iii) the data elements that are necessary to collect and maintain data, and a standardized process for collection and sharing of data with appropriate governmental entities at the Federal, State, and local levels (including metropolitan planning organizations), to carry out paragraph (5); and
“(iv) minimum levels for—
“(I) the condition of pavement on the Interstate System; and
“(II) the condition of bridges on the National Highway System.
“(B) STATE PARTICIPATION.—In carrying out subparagraph (A), the Secretary shall—
“(i) provide States not less than 90 days to comment on any regulation proposed by the Secretary under that subparagraph; and
“(ii) take into consideration any comments of the States relating to a proposed
(5) State performance targets.—

(A) Establishment of targets.—Not later than 1 year after the date on which the Secretary promulgates final regulations under paragraph (4), each State, in consultation with metropolitan planning organizations, shall establish targets that address each of the performance measures identified in paragraph (4)(B).

(B) Periodic updates.—Each State shall periodically update the targets established under subparagraph (A).

(6) Requirement for plan.—To obligate funding apportioned under section 104(b)(1), each State shall have in effect—

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

(B) State targets that address the performance measures identified in paragraph (4)(B).
“(7) Certification of plan development process.—

“(A) In general.—Not later than 90 days after the date on which a State submits a request for approval of the process used by the State to develop the State asset management plan for the National Highway System, the Secretary shall—

“(i) review the process; and

“(ii)(I) certify that the process meets the requirements established by the Secretary; or

“(II) deny certification and specify actions necessary for the State to take to correct deficiencies in the State process.

“(B) Recertification.—Not less often than every 4 years, the Secretary shall review and recertify that the process used by a State to develop and maintain the State asset management plan for the National Highway System meets the requirements for the process, as established by the Secretary.

“(C) Opportunity to cure.—If the Secretary denies certification under subparagraph (A), the Secretary shall provide the State with—
“(i) not less than 90 days to cure the deficiencies of the plan, during which time period all penalties and other legal impacts of a denial of certification shall be stayed; and

“(ii) a written statement of the specific actions the Secretary determines to be necessary for the State to cure the plan.

“(8) PERFORMANCE REPORTS.—

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

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

“(ii) progress in achieving State targets for each of the performance measures for the National Highway System; and

“(iii) the effectiveness of the investment strategy documented in the State asset management plan for the National Highway System.

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

“(9) Process.—Not later than 18 months after the date of enactment of the MAP–21, the Secretary shall, by regulation and in consultation with State departments of transportation, establish the process to develop the State asset management plan described in paragraph (1) and establish the standards and measures described in paragraph (4).

“(g) Interstate System and NHS Bridge Conditions.—

“(1) Condition of Interstate system.—

“(A) Penalty.—If, during 2 consecutive reporting periods, the condition of the Interstate System, excluding bridges on the Interstate System, in a State falls below the minimum condition level established by the Secretary under subsection (f)(4)(D), the State shall be required, during the following fiscal year—

“(i) to obligate, from the amounts apportioned to the State under section
104(b)(1), an amount that is not less than
the amount of funds apportioned to the
State for fiscal year 2009 under the Inter-
state maintenance program for the pur-
poses described in this section (as in effect
on the day before the date of enactment of
the MAP–21), except that the amount re-
served under this clause shall be increased
by 2 percent over the amount reserved in
the previous fiscal year for each year after
fiscal year 2013; and except that for each
year after fiscal year 2013, the amount re-
quired to be obligated under this clause
shall be increased by 2 percent over the
amount required to be obligated in the pre-
vious fiscal year; and

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

“(B) RESTORATION.—The obligation re-
requirement for the Interstate System in a State
required by subparagraph (A) for a fiscal year
shall remain in effect for each subsequent fiscal
year until such time as the condition of the
Interstate System in the State exceeds the min-
imum condition level established by the Sec-
retary under subsection (f)(4)(D).

“(2) CONDITION OF NHS BRIDGES.—

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

“(i) to obligate, from the amounts ap-
portioned to the State under section
104(b)(1), an amount for bridges on the
National Highway System that is not less
than 50 percent of the amount of funds
apportioned to the State for fiscal year
2009 under the highway bridge program.
for the purposes described in section 144
(as in effect on the day before the date of
enactment of the MAP–21), except that
the amount reserved under this clause
shall be increased by 2 percent over the
amount reserved in the previous fiscal year
for each year after fiscal year 2013; and

“(i) to obligate, from the amounts ap-
portioned to the State under section
104(b)(1), an amount for bridges on the Na-
tional Highway System that is not less
than 50 percent of the amount of funds ap-
portioned to the State for fiscal year 2009
under the highway bridge program for the
purposes described in section 144 (as in ef-
flect on the day before the date of enactment
of the MAP–21), except that for each year
after fiscal year 2013, the amount required
to be obligated under this clause shall be in-
creased by 2 percent over the amount re-
quired to be obligated in the previous fiscal
year; and

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

“(B) RESTORATION.—The obligation requirement for bridges on the National Highway System in a State required by subparagraph (A) for a fiscal year shall remain in effect for each subsequent fiscal year until such time as the condition of bridges on the National Highway System in the State exceeds the minimum condition level established by the Secretary under subsection (f)(4)(D).”.

(b) TRANSITION PERIOD.—

(1) IN GENERAL.—Except as provided in paragraph (2), until such date as a State has in effect an approved asset management plan and has established performance targets as described in section 119 of title 23, United States Code, that will contribute to achieving the national goals for the condition and performance of the National Highway System, but not later than 15 18 months after the date
on which the Secretary promulgates final regulations required under section 119(f)(4) of that title, the Secretary shall approve obligations of funds apportioned to a State to carry out the national highway performance program under section 119 of that title, for projects that otherwise meet the requirements of that section.

(2) EXTENSION.—The Secretary may extend the transition period for a State under paragraph (1) if the Secretary determines that the State has made a good faith effort to establish an asset management plan and performance targets referred to in that paragraph.

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

“119. National highway performance program.”.

SEC. 1107. EMERGENCY RELIEF.

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

“§ 125. Emergency relief

“(a) IN GENERAL.—Subject to this section and section 120, an emergency fund is authorized for expenditure by the Secretary for the repair or reconstruction of highways, roads, and trails, in any area of the United States,
including Indian reservations, that the Secretary finds have suffered serious damage as a result of—

“(1) a natural disaster over a wide area, such as by a flood, hurricane, tidal wave, earthquake, severe storm, or landslide; or

“(2) catastrophic failure from any external cause.

“(b) Restriction on Eligibility.—

“(1) Definition of Construction Phase.— In this subsection, the term ‘construction phase’ means the phase of physical construction of a highway or bridge facility that is separate from any other identified phases, such as planning, design, or right-of-way phases, in the State transportation improvement program.

“(2) Restriction.—In no case shall funds be used under this section for the repair or reconstruction of a bridge—

“(A) that has been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to a structural deficiency or physical deterioration; or

“(B) if a construction phase of a replacement structure is included in the approved
Statewide transportation improvement program at the time of an event described in subsection (a).

“(c) FUNDING.—

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

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

“(A) not more than $100,000,000 is authorized to be obligated in any 1 fiscal year commencing after September 30, 1980, to carry out this section, except that, if for any fiscal year the total of all obligations under this section is less than the amount authorized to be obligated for the fiscal year, the unobligated balance of that amount shall—

“(i) remain available until expended; and
“(ii) be in addition to amounts otherwise available to carry out this section for each year; and

“(B)(i) pending such appropriation or replenishment, the Secretary may obligate from any funds appropriated at any time for obligation in accordance with this title, including existing Federal-aid appropriations, such sums as are necessary for the immediate prosecution of the work herein authorized; and

“(ii) funds obligated under this subparagraph shall be reimbursed from the appropriation or replenishment.

“(d) ELIGIBILITY.—

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

“(A) no funds shall be so expended unless an emergency has been declared by the Governor of the State with concurrence by the Secretary, unless the President has declared the emergency to be a major disaster for the purposes of the Robert T. Stafford Disaster Relief
and Emergency Assistance Act (42 U.S.C. 5121 et seq.) for which concurrence of the Secretary is not required; and

“(B) the Secretary has received an application from the State transportation department that includes a comprehensive list of all eligible project sites and repair costs by not later than 2 years after the natural disaster or catastrophic failure.

“(2) COST LIMITATION.—

“(A) DEFINITION OF COMPARABLE FACILITY.—In this paragraph, the term ‘comparable facility’ means a facility that meets the current geometric and construction standards required for a facility of comparable capacity and character to the destroyed facility, except a bridge facility which may be constructed for the type and volume of traffic that the bridge will carry over its design life.

“(B) LIMITATION.—The total cost of a project funded under this section may not exceed the cost of repair or reconstruction of a comparable facility.

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

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

“(5) SUBSTITUTE TRAFFIC.—Notwithstanding any other provision of this section, actual and necessary costs of maintenance and operation of ferry-boats or additional transit service providing temporary substitute highway traffic service, less the amount of fares charged for comparable service, may be expended from the emergency fund authorized by this section for Federal-aid highways.

“(e) TRIBAL TRANSPORTATION FACILITIES, FEDERAL LANDS TRANSPORTATION FACILITIES, AND PUBLIC ROADS ON FEDERAL LANDS.—

“(1) DEFINITION OF OPEN TO PUBLIC TRAVEL.—In this subsection, the term ‘open to public travel’ means, with respect to a road, that, except during scheduled periods, extreme weather conditions, or emergencies, the road is open to the general public for use with a standard passenger vehicle,
without restrictive gates or prohibitive signs or regulations, other than for general traffic control or restrictions based on size, weight, or class of registration.

“(2) EXPENDITURE OF FUNDS.—Notwithstanding subsection (d)(1), the Secretary may expend funds from the emergency fund authorized by this section, independently or in cooperation with any other branch of the Federal Government, a State agency, a tribal government, an organization, or a person, for the repair or reconstruction of tribal transportation facilities, Federal lands transportation facilities, and other federally owned roads that are open to public travel, whether or not those facilities are Federal-aid highways.

“(3) REIMBURSEMENT.—

“(A) IN GENERAL.—The Secretary may reimburse Federal and State agencies (including political subdivisions) for expenditures made for projects determined eligible under this section, including expenditures for emergency repairs made before a determination of eligibility.

“(B) TRANSFERS.—With respect to reimbursements described in subparagraph (A)—
“(i) those reimbursements to Federal agencies and Indian tribal governments shall be transferred to the account from which the expenditure was made, or to a similar account that remains available for obligation; and

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

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

SEC. 1108. TRANSPORTATION MOBILITY PROGRAM.

(a) In General.—Section 133 of title 23, United States Code, is amended to read as follows:

“§ 133. Transportation mobility program

“(a) Establishment.—The Secretary shall establish and implement a transportation mobility program under this section.
“(b) PURPOSE.—The purpose of the transportation mobility program shall be to assist States and localities in improving the conditions and performance on Federal-aid highways and on bridges on any public road.

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

“(1) Construction, reconstruction, rehabilitation, resurfacing, restoration, preservation, or operational improvements for highways, including construction of designated routes of the Appalachian development highway system.

“(2) Replacement (including replacement with fill material), rehabilitation, preservation, protection (including painting, scour countermeasures, seismic retrofits, impact protection measures, security countermeasures, and protection against extreme events) and application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing compositions for bridges (and approaches to bridges and other elevated structures) and tunnels on public roads of all functional classifications, including any
such construction or reconstruction necessary to accommodate other transportation modes.

“(3) Construction of a new bridge or tunnel on a new location on a highway, including any such construction necessary to accommodate other transportation modes.

“(4) Inspection and evaluation (within the meaning of section 144) of bridges and tunnels on public roads of all functional classifications and inspection and evaluation of other highway infrastructure assets, including signs and sign structures, retaining walls, and drainage structures.

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

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

“(7) Carpool projects, fringe and corridor parking facilities and programs, including electric vehicle infrastructure in accordance with section 137, bicycle transportation and pedestrian walkways in accordance with section 217, and the modification of
public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

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

“(9) Highway and transit research and development and technology transfer programs.

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

“(11) Projects and strategies designed to support congestion pricing, including electronic toll collection and travel demand management strategies and programs.

“(12) Surface transportation planning.

“(13) Transportation enhancement activities.

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

“(15) Construction of ferry boats and ferry terminal facilities eligible for funding under section 129(e).
“(16) Border infrastructure projects eligible for funding under section 1303 of the SAFETEA-LU (Public Law 109–59).

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

“(18) Truck parking facilities eligible for funding under section 1401 of the MAP–21.


“(21) Development and implementation of a State asset management plan for the National Highway System in accordance with section 119, including data collection, maintenance, and integration and the costs associated with obtaining, updating, and licensing software and equipment required for risk-based asset management and performance-based management, and for similar activities relating to the development and implementation of a perform-
ance-based management system program for other public roads.

“(22) In accordance with all applicable Federal law (including regulations), participation in natural habitat and wetlands mitigation efforts relating to projects funded under this title, which may include participation in natural habitat and wetlands mitigation banks, contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetlands, and development of statewide and regional natural habitat and wetlands conservation and mitigation plans, including any such banks, efforts, and plans developed in accordance with applicable Federal law (including regulations), on the conditions that—

“(A) contributions to those mitigation efforts may—

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

“(ii) occur in advance of project construction only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes; and
“(B) with respect to participation in a natural habitat or wetland mitigation effort relating to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference is given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with applicable Federal law (including regulations).

“(23) Infrastructure-based intelligent transportation systems capital improvements.

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

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

“(26) Improvements to a freight railroad, marine highway, or intermodal facility, but only to the extent that the Secretary concurs with the State that—

“(A) the project will make significant improvement to freight movements on the national freight network;
“(B) the public benefit of the project exceeds the Federal investment; and

“(C) the project provides a better return than a highway project on a segment of the primary freight network, except that a State may not obligate in excess of 5 percent of funds apportioned to the State under section 104(b)(2) to carry out this section for that purpose.

“(27) Maintenance of and improvements to all public roads, including non-State-owned public roads and roads on tribal land—

“(A) that are located within 10 miles of the international border between the United States and Canada or Mexico; and

“(B) on which federally owned vehicles comprise more than 50 percent of the traffic.

“(28) Construction, reconstruction, resurfacing, restoration, rehabilitation, and preservation of, and operational improvements for, any public road if—

“(A) the public road, and the highway project to be carried out with respect to the public road, are in the same corridor as, and in proximity to—
“(i) a fully access-controlled highway designated as a part of the National Highway System; or

“(ii) in areas with a population of less than 200,000, a federal-aid highway designated as part of the National Highway System;

“(B) the construction or improvements will enhance the level of service on the highway described in subparagraph (A) and improve regional traffic flow; and

“(C) the construction or improvements are more cost-effective, as determined by benefit-cost analysis, than an improvement to the highway described in subparagraph (A).

“(d) Allocations of Apportioned Funds to Areas Based on Population.—

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

“(A) 50 percent for a fiscal year shall be obligated under this section, in proportion to their relative shares of the population of the State—
“(i) in urbanized areas of the State with an urbanized area population of over 200,000;

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

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

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

“(2) Metropolitan Areas.—Funds attributed to an urbanized area under subparagraph (A)(i) may be obligated in the metropolitan area established under section 134 that encompasses the urbanized area.

“(3) Distribution Among Urbanized Areas of Over 200,000 Population.—

“(A) In General.—Except as provided in subparagraph (B), the amount of funds that a State is required to obligate under paragraph (1)(A)(i) shall be obligated in urbanized areas described in paragraph (1)(A)(i) based on the relative population of the areas.

“(B) Other Factors.—The State may obligate the funds described in subparagraph (A) based on other factors if the State and the
relevant metropolitan planning organizations
jointly apply to the Secretary for the permission
to base the obligation on other factors and the
Secretary grants the request.

“(e) LOCATION OF PROJECTS.—Except as provided
in subsection (g) and for projects described in paragraphs
(2), (4), (7), (8), (13), (14), and (19) of subsection (c),
transportation mobility program projects may not be un-
dertaken on roads functionally classified as local or rural
minor collectors.

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

“(g) BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—
“(1) DEFINITION OF OFF-SYSTEM BRIDGE.—
The term ‘off-system bridge’ means a highway
bridge located on a public road, other than a bridge
on a Federal-aid highway.

“(2) SPECIAL RULE.—

“(A) PENALTY.—If the total deck area of
deficient off-system bridges in a State increases
for the 2 most recent consecutive years, the
State shall be required, during the following fis-
cal year, to obligate for the improvement of de-
ficient off-system bridges from the amounts ap-
portioned to the State under section 104(b)(2)
an amount that is not less than 110 percent of
the amount of funds required to be obligated by
the State for off-system bridges for fiscal year
2009 under section 144(f)(2), as in effect on
the day before the date of enactment of the
MAP–21, except that the amount reserved
under this subparagraph shall be increased by
2 percent over the amount reserved in the pre-
vious fiscal year for each year after fiscal year
2013.

“(A) PENALTY.—If the total deck area of de-
cicient off-system bridges in a State increases for
the 2 most recent consecutive years, the State
shall be required, during the following fiscal
year, to obligate for the improvement of deficient
off-system bridges from the amounts apportioned
to the State under section 104(b)(2) an amount
that is not less than 110 percent of the amount
of funds required to be obligated by the State for
off-system bridges for fiscal year 2009 under sec-
tion 144(f)(2), as in effect on the day before the
date of enactment of the MAP–21, except that for
each year after fiscal year 2013, the amount re-
quired to be obligated under this subparagraph shall be increased by 2 percent over the amount required to be obligated in the previous fiscal year.

“(B) RESTORATION.—The obligation requirement for off-system bridges in a State required by subparagraph (A) for a fiscal year shall remain in effect for each subsequent fiscal year until such time as the total deck area of deficient off-system bridges in the State has decreased to the level it was in the State for the fiscal year prior to the establishment of the obligation requirement for the State under subparagraph (A).

“(3) CREDIT FOR BRIDGES NOT ON FEDERAL-AID HIGHWAYS.—Notwithstanding any other provision of law, with respect to any project not on a Federal-aid highway for the replacement of a bridge or rehabilitation of a bridge that is wholly funded from State and local sources, is eligible for Federal funds under this section, is noncontroversial, is certified by the State to have been carried out in accordance with all standards applicable to such projects under this section, and is determined by the
Secretary upon completion to be no longer a deficient bridge—

“(A) any amount expended after the date of enactment of this subsection from State and local sources for the project in excess of 20 percent of the cost of construction of the project may be credited to the non-Federal share of the cost of other bridge projects in the State that are eligible for Federal funds under this section; and

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

“(h) ADMINISTRATION.—

“(1) SUBMISSION OF PROJECT AGREEMENT.— For each fiscal year, each State shall submit a project agreement that—

“(A) certifies that the State will meet all the requirements of this section; and

“(B) notifies the Secretary of the amount of obligations needed to carry out the program under this section.

“(2) REQUEST FOR ADJUSTMENTS OF AMOUNTS.—Each State shall request from the Secretary such adjustments to the amount of obligations
referred to in paragraph (1)(B) as the State determines to be necessary.

“(3) Effect of approval by the Secretary.—Approval by the Secretary of a project agreement under paragraph (1) shall be deemed a contractual obligation of the United States to pay transportation mobility program funds made available under this title.”.

(b) Conforming Amendment.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 133 and inserting the following:

“133. Transportation mobility program.”

SEC. 1109. WORKFORCE DEVELOPMENT.

(a) On-the-job training.—Section 140(b) of title 23, United States Code, is amended—

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

(2) by striking “the surface transportation program under section 104(b) and the bridge program under section 144” and inserting “the transportation mobility program under section 104(b)”.

(b) Disadvantaged Business Enterprise.—Section 140(e) of title 23, United States Code, is amended
by striking “Whenever apportionments are made under section 104(b)(3),” and inserting “From administrative funds made available under section 104(a),”.

SEC. 1110. HIGHWAY USE TAX EVASION PROJECTS.

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

(1) in subsection (b)—

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

“(2) FUNDING.—

“(A) IN GENERAL.—From administrative funds made available under section 104(a), the Secretary shall deduct such sums as are necessary, not to exceed $10,000,000 for each fiscal year each of fiscal years 2012 and 2013, to carry out this section.

“(B) ALLOCATION OF FUNDS.— Funds made available to carry out this section may be allocated to the Internal Revenue Service and the States at the discretion of the Secretary, except 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 the 21st Century (Public Law 105–178; 112 Stat. 107), yet continued improvement to bridge conditions is essential to protect the safety of the traveling public and allow for the efficient movement of people and goods on
which the economy of the United States relies; and

“(B) the systematic preventative maintenance of bridges, and replacement and rehabilitation of deficient bridges, should be undertaken through an overall asset management approach to transportation investment.

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

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

“(B) to use a data-driven, risk-based approach and cost-effective strategy for systematic preventative maintenance, replacement, and rehabilitation of highway bridges and tunnels to ensure safety and extended service life;

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

“(D) to ensure accountability and link performance outcomes to investment decisions; and

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

“(b) NATIONAL BRIDGE AND TUNNEL INVENTORIES.—

“(1) IN GENERAL.—The Secretary, in consultation with the States, shall—

“(A) inventory all highway bridges on public roads that are bridges over waterways, other topographical barriers, other highways, and railroads;

“(B) classify the bridges according to serviceability, safety, and essentiality for public use, including the potential impacts to emergency evacuation routes and to regional and national freight and passenger mobility if the serviceability of the bridge is restricted or diminished; and

“(C) based on that classification, assign each a risk-based priority for systematic preventative maintenance, replacement, or rehabilitation.

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

“(A) inventory all tribally owned and Federally owned highway bridges that are open to the public, over waterways, other topographical barriers, other highways, and railroads;

“(B) classify the bridges according to serviceability, safety, and essentiality for public use; and

“(C) based on the classification, assign each a risk-based priority for systematic preventative maintenance, replacement, or rehabilitation.

“(3) TUNNELS.—The Secretary shall establish a national inventory of highway tunnels reflecting the findings of the most recent highway tunnel inspections conducted by States under this section.

“(c) GENERAL BRIDGE AUTHORITY.—

“(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) shall apply to bridges authorized to be replaced, in whole or in part, by this title.

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

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

“(B) are—

“(i) not tidal; or

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

“(d) INVENTORY UPDATES AND REPORTS.—

“(1) IN GENERAL.—The Secretary shall—

“(A) annually revise the inventories authorized by subsection (b); and

“(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the inventories.

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

“(3) GUIDANCE.—The Secretary shall provide
guidance to States and Federal agencies for imple-
mentation of this subsection, while respecting the ex-
isting inspection schedule of each State.

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

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

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

“(e) BRIDGES WITHOUT TAXING POWERS.—

“(1) IN GENERAL.—Notwithstanding any other
provision of law, any bridge that is owned and oper-
ated by an agency that does not have taxing powers
and whose functions include operating a federally as-
sisted public transit system subsidized by toll reve-
nues shall be eligible for assistance under this title,
but the amount of such assistance shall in no event exceed the cumulative amount which such agency has expended for capital and operating costs to subsidize such transit system.

“(2) INSUFFICIENT ASSETS.—Before authorizing an expenditure of funds under this subsection, the Secretary shall determine that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the necessary bridge replacement or rehabilitation project.

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

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

“(1) IN GENERAL.—Notwithstanding any other provision of law, a State may use the funds apportioned under section 104(b)(2) to construct any bridge that replaces—
“(A) any low water crossing (regardless of the length of the low water crossing);

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

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

“(D) any road bridge that is rendered obsolete as a result of a Corps of Engineers flood control or channelization project and is not rebuilt with funds from the Corps of Engineers.

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

“(g) Historic Bridges.—

“(1) Definition of historic bridge.—In this subsection, the term ‘historic bridge’ means any bridge that is listed on, or eligible for listing on, the National Register of Historic Places.

“(2) Coordination.—The Secretary shall, in cooperation with the States, encourage the retention, rehabilitation, adaptive reuse, and future study of historic bridges.

“(3) State inventory.—The Secretary shall require each State to complete an inventory of all
bridges on and off Federal-aid highways to determine the historic significance of the bridges.

"(4) Eligibility.—

"(A) In general.—Subject to subparagraph (B), reasonable costs associated with actions to preserve, or reduce the impact of a project under this chapter on, the historic integrity of a historic bridge shall be eligible as reimbursable project costs under section 133 if the load capacity and safety features of the historic bridge are adequate to serve the intended use for the life of the historic bridge.

"(B) Bridges not used for vehicle traffic.—In the case of a historic bridge that is no longer used for motorized vehicular traffic, the costs eligible as reimbursable project costs pursuant to this chapter shall not exceed the estimated cost of demolition of the historic bridge.

"(5) Preservation.—Any State that proposes to demolish a historic bridge for a replacement project with funds made available to carry out this section shall first make the historic bridge available for donation to a State, locality, or responsible pri-
vate entity if the State, locality, or responsible entity enters into an agreement—

“(A) to maintain the bridge and the features that give the historic bridge its historic significance; and

“(B) to assume all future legal and financial responsibility for the historic bridge, which may include an agreement to hold the State transportation department harmless in any liability action.

“(6) COSTS INCURRED.—

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

“(B) ADDITIONAL FUNDING.—Any bridge preserved pursuant to this paragraph shall not be eligible for any other funds authorized pursuant to this title.

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

“(1) REQUIREMENT.—
“(A) IN GENERAL.—The Secretary shall establish and maintain inspection standards for the proper inspection and evaluation of all highway bridges and tunnels for safety and serviceability.

“(B) UNIFORMITY.—The standards under this subsection shall be designed to ensure uniformity of the inspections and evaluations.

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

“(A) specify, in detail, the method by which the inspections shall be carried out by the States, Federal agencies, and tribal governments;

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

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

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

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

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

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

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

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

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

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

“(B) establish, in consultation with the
States, and interested and knowledgeable pri-
ivate organizations and individuals, procedures
for States to follow in reporting to the Sec-
retary—
“(i) critical findings relating to structural or safety-related deficiencies of highway bridges; and

“(ii) monitoring activities and corrective actions taken in response to a critical finding.

“(4) Reviews of State compliance.—

“(A) In general.—The Secretary shall annually review State compliance with the standards established under this section.

“(B) Noncompliance.—If an annual review in accordance with subparagraph (A) identifies noncompliance by a State, the Secretary shall—

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

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

“(I) developing a corrective action plan to remedy the noncompliance; or
“(II) resolving the issues of non-compliance not later than 45 days after the date of notification.

“(5) PENALTY FOR NONCOMPLIANCE.—

“(A) IN GENERAL.—If a State fails to satisfy the requirements of paragraph (4)(B) by August 1 of the calendar year following the year of a finding of noncompliance, the Secretary shall, on October 1 of that year, and each year thereafter as may be necessary, require the State to dedicate funds apportioned to the State under sections 119 and 133 after the date of enactment of the MAP–21 to correct the noncompliance with the minimum inspection standards established under this subsection.

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

“(i) be determined by the State based on an analysis of the actions needed to address the noncompliance; and

“(ii) require approval by the Secretary.

“(6) UPDATE OF STANDARDS.—Not later than 3 years after the date of enactment of the MAP–21,
the Secretary shall update inspection standards to cover—

(A) the methodology, training, and qualifications for inspectors; and

(B) the frequency of inspection.

(7) RISK-BASED APPROACH.—In carrying out the revisions required by paragraph (6), the Secretary shall consider a risk-based approach to determining the frequency of bridge inspections.

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

(1) IN GENERAL.—The Secretary, in cooperation with the State transportation departments, shall maintain a program designed to train appropriate personnel to carry out highway bridge and tunnel inspections.

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

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

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by
striking the item relating to section 144 and inserting the following:

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

SEC. 1112. HIGHWAY SAFETY IMPROVEMENT PROGRAM.

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

§ 148. Highway safety improvement program

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

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

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

“(3) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term ‘highway safety improvement program’ means projects, activities, plans, and reports carried out under this section.

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

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

“(ii) address a highway safety problem.

“(B) INCLUSIONS.—The term ‘highway safety improvement project’ includes, but is not limited to, a project for 1 or more of the following:

“(i) An intersection safety improvement.

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

“(iii) Installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians, including persons with disabilities.
“(iv) Installation of a skid-resistant surface at an intersection or other location with a high frequency of crashes.

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

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

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

“(viii) Construction of a traffic calming feature.

“(ix) Elimination of a roadside hazard.

“(x) Installation, replacement, and other improvement of highway signage and pavement markings, or a project to maintain minimum levels of retroreflectivity, that addresses a highway safety problem consistent with a State strategic highway safety plan.
“(xi) Installation of a priority control system for emergency vehicles at signalized intersections.

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

“(xiii) Transportation safety planning.

“(xiv) Collection, analysis, and improvement of safety data.

“(xv) Planning integrated interoperable emergency communications equipment, operational activities, or traffic enforcement activities (including police assistance) relating to work zone safety.

“(xvi) Installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of road users and workers), and crash attenuators.

“(xvii) The addition or retrofitting of structures or other measures to eliminate or reduce crashes involving vehicles and wildlife.
“(xviii) Installation of yellow-green signs and signals at pedestrian and bicycle crossings and in school zones.

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

“(xx) Geometric improvements to a road for safety purposes that improve safety.

“(xxi) A road safety audit.

“(xxii) Roadway safety infrastructure improvements consistent with the recommendations included in the publication of the Federal Highway Administration entitled ‘Highway Design Handbook for Older Drivers and Pedestrians’ (FHWA-RD-01-103), dated May 2001 or as subsequently revised and updated.

“(xxiii) Truck parking facilities eligible for funding under section 1401 of the MAP–21.

“(xxiv) Systemic safety improvements.

“(5) MODEL INVENTORY OF ROADWAY ELEMENTS.—The term ‘model inventory of roadway elements’ means the listing and standardized coding by the Federal Highway Administration of roadway and
traffic data elements critical to safety management, analysis, and decisionmaking.

“(6) Project to Maintain Minimum Levels of Retroreflectivity.—The term ‘project to maintain minimum levels of retroreflectivity’ means a project that is designed to maintain a highway sign or pavement marking retroreflectivity at or above the minimum levels prescribed in Federal or State regulations.

“(7) Road Safety Audit.—The term ‘road safety audit’ means a formal safety performance examination of an existing or future road or intersection by an independent multidisciplinary audit team.

“(8) Road Users.—The term ‘road user’ means a motorist, passenger, public transportation operator or user, truck driver, bicyclist, motorcyclist, or pedestrian, including a person with disabilities.

“(9) Safety Data.—

“(A) In General.—The term ‘safety data’ means crash, roadway, and traffic data on a public road.

“(B) Inclusion.—The term ‘safety data’ includes, in the case of a railway-highway grade crossing, the characteristics of highway and train traffic, licensing, and vehicle data.
“(10) SAFETY PROJECT UNDER ANY OTHER SECTION.—

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

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

“(i) a project consistent with the State strategic highway safety plan that promotes the awareness of the public and educates the public concerning highway safety matters (including motorcycle safety);

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

“(iii) a project to provide infrastructure and infrastructure-related equipment to support emergency services.

“(11) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term ‘State highway safety improvement program’ means a program of highway safety improvement projects, activities, plans and reports carried out as part of the Statewide transportation improvement program under section 135(g).
“(12) State strategic highway safety plan.—The term ‘State strategic highway safety plan’ means a comprehensive plan, based on safety data, developed by a State transportation department that—

“(A) is developed after consultation with—

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

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

“(iii) representatives of major modes of transportation;

“(iv) State and local traffic enforcement officials;

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

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

“(vii) motor vehicle administration agencies;

“(viii) county transportation officials; and
“(ix) other major Federal, State, tribal, and local safety stakeholders;

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

“(C) addresses engineering, management, operation, education, enforcement, and emergency services elements (including integrated, interoperable emergency communications) of highway safety as key factors in evaluating highway projects;

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

“(E) considers the results of State, regional, or local transportation and highway safety planning processes;

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

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

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

“(I) is updated and submitted to the Secretary for approval as required under subsection (d)(2).
“(13) Systemic safety improvement.—The term ‘systemic safety improvement’ means an improvement that is widely implemented based on high-risk roadway features that are correlated with particular crash types, rather than crash frequency.

“(b) Program.—

“(1) In general.—The Secretary shall carry out a highway safety improvement program.

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

“(c) Eligibility.—

“(1) In general.—To obligate funds apportioned under section 104(b)(3) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—

“(A) develops, implements, and updates a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in subsections (a)(12) and (d);
“(B) produces a program of projects or strategies to reduce identified safety problems; and

“(C) evaluates the strategic highway safety plan on a regularly recurring basis in accordance with subsection (d)(1) to ensure the accuracy of the data and priority of proposed strategies.

“(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State highway safety improvement program, a State shall—

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

“(i) to improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the safety data on all public roads, including non-State-owned public roads and roads on tribal land in the State;

“(ii) to evaluate the effectiveness of data improvement efforts;
“(iii) to link State data systems, including traffic records, with other data systems within the State;

“(iv) to improve the compatibility and interoperability of safety data with other State transportation-related data systems and the compatibility and interoperability of State safety data systems with data systems of other States and national data systems;

“(v) to enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances; and

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

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

“(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, and other highway users;
“(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of crashes (including crash rates), fatalities, serious injuries, traffic volume levels, and other relevant data;

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

“(iv) identify highway safety improvement projects on the basis of crash experience, crash potential, crash rate, or other data-supported means; and

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

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

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

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

“(iii) are coordinated with other State highway safety programs;
“(D) advance the capabilities of the State for safety data collection, analysis, and integration in a manner that—

“(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

“(ii) includes all public roads, including public non-State-owned roads and roads on tribal land;

“(iii) identifies hazardous locations, sections, and elements on all public roads that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, persons with disabilities, and other highway users;

“(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of crashes, crashes (including crash rate), serious injuries, fatalities, and traffic volume levels; and

“(v) improves the ability of the State to identify the number of fatalities and serious injuries on all public roads in the
State with a breakdown by functional classification and ownership in the State;

“(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through safety data analysis;

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

“(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

“(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

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

“(d) Updates to Strategic Highway Safety Plans.—

“(1) Establishment of requirements.—
“(A) IN GENERAL.—Not later than 1 year after the date of enactment of the MAP–21, the Secretary shall establish requirements for regularly recurring State updates of strategic highway safety plans.

“(B) CONTENTS OF UPDATED STRATEGIC HIGHWAY SAFETY PLANS.—In establishing requirements under this subsection, the Secretary shall ensure that States take into consideration, with respect to updated strategic highway safety plans—

“(i) the findings of road safety audits;

“(ii) the locations of fatalities and serious injuries;

“(iii) the locations that do not have an empirical history of fatalities and serious injuries, but possess risk factors for potential crashes;

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

“(v) motor vehicle crashes that include fatalities or serious injuries to pedestrians and bicyclists;

“(vi) the cost-effectiveness of improvements;
“(vii) improvements to rail-highway grade crossings; and
“(viii) safety on all public roads, including non-State-owned public roads and roads on tribal land.

“(2) APPROVAL OF UPDATED STRATEGIC HIGHWAY SAFETY PLANS.—

“(A) IN GENERAL.—Each State shall—

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

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

“(B) REQUIREMENTS FOR APPROVAL.—

The Secretary shall not approve the process for an updated strategic highway safety plan unless—

“(i) the updated strategic highway safety plan is consistent with the requirements of this subsection and subsection (a)(12); and

“(ii) the process used is consistent with the requirements of this subsection.
“(3) Penalty for failure to have an approved updated strategic highway safety plan.—If a State does not have an updated strategic highway safety plan with a process approved by the Secretary by August 1 of the fiscal year beginning after the date of establishment of the requirements under paragraph (1)—

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

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

“(e) Eligible Projects.—
“(1) **In general.**—Funds apportioned to the State under section 104(b)(3) may be obligated to carry out—

“(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail; or

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

“(2) **Use of other funding for safety.**—

“(A) **Effect of section.**—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

“(B) **Use of other funds.**—States are encouraged to address the full scope of the safety needs and opportunities of the States by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

“(f) **Flexible funding for States with a strategic highway safety plan.**—

“(1) **In general.**—To further the implementation of a State strategic highway safety plan, a State may use up to 10 percent of the amount of funds apportioned to the State under section 104(b)(3) for
a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan if the State certifies that—

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

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

“(2) Other Transportation and Highway Safety Plans.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of the MAP–21.

“(g) Data Improvement.—

“(1) Definition of Data Improvement Activities.—In this subsection:

“(A) In General.—The term ‘data improvement activities’ means a project or activity to further the capacity of a State to make more informed and effective safety infrastructure investment decisions.

“(B) Inclusions.—The term ‘data improvement activities’ includes a project or activity—
“(i) to create, update, or enhance a highway basemap of all public roads in a State;

“(ii) to collect safety data, including data identified as part of the model inventory of roadway elements, for creation of or use on a highway basemap of all public roads in a State;

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

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

“(v) to acquire and implement roadway safety analysis tools; and

“(vi) to support the collection, maintenance, and sharing of safety data on all public roads and related systems associated with the analytical usage of that data.

“(2) APPORTIONMENT.—Of the funds apportioned to a State under section 104(b)(3) for a fiscal year—

“(A) not less than 8 percent of the funds apportioned for each of fiscal years 2012 through 2013 shall be available only for data
improvement activities under this subsection; and

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

“(3) SPECIAL RULE.—A State may use funds apportioned to the State pursuant to this subsection for any project eligible under this section if the State demonstrates to the satisfaction of the Secretary that the State has met all of the State needs for data collection to support the State strategic highway safety plan and sufficiently addressed the data improvement activities described in paragraph (1).

“(4) MODEL INVENTORY OF ROADWAY ELEMENTS.—The Secretary shall—

“(A) establish a subset of the model inventory of roadway elements that are useful for the inventory of roadway safety; and

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

“(h) PERFORMANCE MEASURES AND TARGETS FOR STATE HIGHWAY SAFETY IMPROVEMENT PROGRAMS.—
“(1) Establishment of performance measures.—Not later than 1 year after the date of enactment of the MAP–21, the Secretary shall issue guidance to States on the establishment, collection, and reporting of performance measures that reflect—

“(A) serious injuries and fatalities per vehicle mile traveled;

“(B) serious injuries and fatalities per capita; and

“(C) the number of serious injuries and fatalities

“(2) Establishment of state performance targets.—Not later than 1 year after the Secretary has issued guidance to States on the establishment, collection, and reporting of performance measures, each State shall set performance targets that reflect—

“(A) serious injuries and fatalities per vehicle mile traveled;

“(B) serious injuries and fatalities per capita; and

“(C) the number of serious injuries and fatalities.

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

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

“(2) **RAIL-HIGHWAY GRADE CROSSINGS.**—If the average number of fatalities at rail-highway grade crossings in a State over the most recent 2-year period for which data are available increases over the average number of fatalities during the preceding 2-
year period, that State shall be required to obligate in the next fiscal year for projects on rail-highway grade crossings an amount equal to 120 percent of the amount of funds the State received for fiscal year 2009 for rail-highway grade crossings under section 130(f) (as in effect on the day before the date of enactment of the MAP–21).

“(j) Reports.—

“(1) In general.—A State shall submit to the Secretary a report that—

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

“(B) describes progress being made to implement highway safety improvement projects under this section;

“(C) assesses the effectiveness of those improvements; and

“(D) describes the extent to which the improvements funded under this section have contributed to reducing—

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

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

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

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

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

“(A) the website of the Department; and

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

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

“(k) State Performance Targets.—If the Sec-
retary determines that a State has not met or made sig-
nificant progress toward meeting the performance targets
of the State established under subsection (h) by the date
that is 2 years after the date of the establishment of the
performance targets, the State shall—

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

“(2) submit annually to the Secretary, until the
Secretary determines that the State has met or
made significant progress toward meeting the per-
formance targets of the State, an implementation
plan that—
“(A) identifies roadway features that constitute a hazard to road users;

“(B) identifies highway safety improvement projects on the basis of crash experience, crash potential, or other data-supported means;

“(C) describes how highway safety improvement program funds will be allocated, including projects, activities, and strategies to be implemented;

“(D) describes how the proposed projects, activities, and strategies funded under the State highway safety improvement program will allow the State to make progress toward achieving the safety performance targets of the State; and

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

“(l) Federal Share of Highway Safety Improvement Projects.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds apportioned to a State under section 104(b)(3) shall be 90 percent.”.
SEC. 1113. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

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

“§ 149. Congestion mitigation and air quality improvement program

“(a) Establishment.—The Secretary shall establish and implement a congestion mitigation and air quality improvement program in accordance with this section.

“(b) Eligible Projects.—

“(1) In general.—Except as provided in subsection (c), a State may obligate funds apportioned to the State for the congestion mitigation and air quality improvement program under section 104(b)(4) that are not reserved under subsection (l) only for a transportation project or program if the project or program is for an area in the State that is or was designated as a nonattainment area for ozone, carbon monoxide, or particulate matter under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) and classified pursuant to section 181(a), 186(a), 188(a), or 188(b) of the Clean Air Act (42 U.S.C. 7511(a), 7512(a), 7513(a), or 7513(b)) or is or was designated as a nonattainment area under section 107(d) of that Act after December 31, 1997, or is required to prepare, and file with the Adminis-
trator of the Environmental Protection Agency, maintenance plans under the Clean Air Act (42 U.S.C. 7401 et seq.); and

“(A)(i)(I) if the Secretary, after consultation with the Administrator determines, on the basis of information published by the Environmental Protection Agency pursuant to subparagraph (A) of section 108(f)(1) of the Clean Air Act (other than clause (xvi) of that subparagraph) (42 U.S.C. 7408(f)(1)) that the project or program is likely to contribute to—

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

“(bb) the maintenance of a national ambient air quality standard in a maintenance area; and

“(II) there exists a high level of effectiveness in reducing air pollution, in cases of projects or programs where sufficient information is available in the database established pursuant to subsection (h) to determine the relative effectiveness of such projects or programs; or

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

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

“(C) to establish or operate a traffic moni-
toring, management, and control facility or pro-
gram, including advanced truck stop electrification
systems, if the Secretary, after consultation
with the Administrator, determines that the fa-
cility or program is likely to contribute to the
attainment of a national ambient air quality
standard;

“(D) if the program or project improves
traffic flow, including projects to improve sig-
nalization, construct high-occupancy vehicle
lanes, improve intersections, add turning lanes,
improve transportation systems management
and operations that mitigate congestion and im-
prove air quality, and implement intelligent
transportation system strategies and such other
projects that are eligible for assistance under
this section on the day before the date of enact-
ment of the MAP–21, including programs or
projects to improve incident and emergency response or improve mobility, such as through real-time traffic, transit, and multimodal traveler information;

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

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

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

“(I) for motor vehicles (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); or

“(II) verified or certified technologies included in the list published pursuant to subsection (f)(2), as in effect on the day before the date of enactment of the MAP–21, for nonroad vehicles and nonroad engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) that are used in construction projects that are—

“(aa) located in nonattainment or maintenance areas for ozone, PM$_{10}$, or PM$_{2.5}$ (as de-
fined under the Clean Air Act
(42 U.S.C. 7401 et seq.)); and

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

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

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

“(H) if the Secretary, after consultation
with the Administrator, determines that the
project or program is likely to contribute to the
attainment of a national ambient air quality
standard, whether through reductions in vehicle
miles traveled, fuel consumption, or through
other factors.
“(2) LIMITATIONS.—Funds apportioned to a State under section 104(b)(4) and not reserved under subsection (l) may not be obligated for a project that will result in the construction of new capacity available to single-occupant vehicles unless the project consists of a high-occupancy vehicle facility available to single-occupant vehicles only at other than peak travel times or such use by single-occupant vehicles at peak travel times is subject to a toll.

“(c) STATES FLEXIBILITY.—

“(1) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have, and never has had, a nonattainment area designated under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone, carbon monoxide, or PM$_{2.5}$, the State may use funds apportioned to the State under section 104(b)(4) (excluding the amount of funds reserved under subsection (l)) for any project in the State that—

“(A) would otherwise be eligible under subsection (b) as if the project were carried out in a nonattainment or maintenance area; or

“(B) is eligible under the transportation mobility program under section 133.

“(2) STATES WITH A NONATTAINMENT AREA.—
“(A) IN GENERAL.—If a State has a non-
attainment area or maintenance area and re-
ceived funds in fiscal year 2009 under section
104(b)(2)(D), as in effect on the day before the
date of enactment of the MAP–21, above the
amount of funds that the State would have re-
ceived based on the nonattainment and mainte-
nance area population of the State under sub-
paragraphs (B) and (C) of section 104(b)(2), as
in effect on the day before the date of enact-
ment of the MAP–21, the State may use for
any project that is eligible under the transpor-
tation mobility program under section 133 an
amount of funds apportioned to such State
under section 104(b)(4) (excluding the amount
of funds reserved under subsection (l)) that is
equal to the product obtained by multiplying—

“(i) the apportioned amount the
amount apportioned to such State under
section 104(b)(4) (excluding the amount of
funds reserved under subsection (l)); by

“(ii) the ratio calculated under para-
graph (B).

“(B) RATIO.—For purposes of this para-
graph, the ratio shall be calculated as—
“(i) the amount for fiscal year 2009 such State was permitted by section 149(c)(2), as in effect on the day before the date of enactment of the MAP–21, to obligate in any area of the State for projects eligible under section 133, as in effect on the day before the date of enactment of the MAP–21; bears to

“(ii) the total apportionment to such State for fiscal year 2009 under section 104(b)(2), as in effect on the day before the date of enactment of the MAP–21.

“(3) CHANGES IN DESIGNATION.—If a new nonattainment area is designated or a previously designated nonattainment area is redesignated as an attainment area in a State under the Clean Air Act (42 U.S.C. 7401 et seq.), the Secretary shall modify the amount such State is permitted to obligate in any area of the State for projects eligible under section 133.

“(d) APPLICABILITY OF PLANNING REQUIREMENTS.—Programming and expenditure of funds for projects under this section shall be consistent with the requirements of sections 134 and 135.
“(e) PARTNERSHIPS WITH NONGOVERNMENTAL ENTITIES.—

“(1) IN GENERAL.—Notwithstanding any other provision of this title and in accordance with this subsection, a metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project carried out with funds apportioned under section 104(b)(4).

“(2) FORMS OF PARTICIPATION BY ENTITIES.— Participation by an entity under paragraph (1) may consist of—

“(A) ownership or operation of any land, facility, vehicle, or other physical asset associated with the project;

“(B) cost sharing of any project expense;

“(C) carrying out of administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

“(D) any other form of participation approved by the Secretary.
“(3) Allocation to Entities.—A State may allocate funds apportioned under section 104(b)(4) to an entity described in paragraph (1).

“(4) Alternative Fuel Projects.—In the case of a project that will provide for the use of alternative fuels by privately owned vehicles or vehicle fleets, activities eligible for funding under this subsection—

“(A) may include the costs of vehicle re-fueling infrastructure, including infrastructure that would support the development, production, and use of emerging technologies that reduce emissions of air pollutants from motor vehicles, and other capital investments associated with the project;

“(B) shall include only the incremental cost of an alternative fueled vehicle, as compared to a conventionally fueled vehicle, that would otherwise be borne by a private party; and

“(C) shall apply other governmental financial purchase contributions in the calculation of net incremental cost.

“(5) Prohibition on Federal Participation with Respect to Required Activities.—A Fed-
eral participation payment under this subsection may not be made to an entity to fund an obligation imposed under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other Federal law.

“(f) PRIORITY CONSIDERATION.—States and metropolitan planning organizations shall give priority in areas designated as nonattainment or maintenance for PM$_{2.5}$ under the Clean Air Act (42 U.S.C. 7401 et seq.) in distributing funds received for congestion mitigation and air quality projects and programs from apportionments under section 104(b)(4) not required to be reserved under subsection (l) to projects that are proven to reduce PM$_{2.5}$, including diesel retrofits.

“(g) INTERAGENCY CONSULTATION.—The Secretary shall encourage States and metropolitan planning organizations to consult with State and local air quality agencies in nonattainment and maintenance areas on the estimated emission reductions from proposed congestion mitigation and air quality improvement programs and projects.

“(h) EVALUATION AND ASSESSMENT OF PROJECTS.—

“(1) DATABASE.—

“(A) IN GENERAL.—Using appropriate assessments of projects funded under the congestion mitigation and air quality program and re-
results from other research, the Secretary shall maintain and disseminate a cumulative database describing the impacts of the projects, including specific information about each project, such as the project name, location, sponsor, cost, and, to the extent already measured by the project sponsor, cost-effectiveness, based on reductions in congestion and emissions.

“(B) Availability.—The database shall be published or otherwise made readily available by the Secretary in electronically accessible format and means, such as the Internet, for public review.

“(2) Cost Effectiveness.—

“(A) In general.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate projects on a periodic basis and develop a table or other similar medium that illustrates the cost-effectiveness of a range of project types eligible for funding under this section as to how the projects mitigate congestion and improve air quality.

“(B) Contents.—The table described in subparagraph (A) shall show measures of cost-
effectiveness, such as dollars per ton of emissions reduced, and assess those measures over a variety of timeframes to capture impacts on the planning timeframes outlined in section 134.

“(C) Use of Table.—States and metropolitan planning organizations shall consider the information in the table when selecting projects or developing performance plans under subsection (k).

“(i) Optional Programmatic Eligibility.—

“(1) In general.—At the discretion of a metropolitan planning organization, a technical assessment of a selected program of projects may be conducted through modeling or other means to demonstrate the emissions reduction projection required under this section.

“(2) Applicability.—If an assessment described in paragraph (1) successfully demonstrates an emissions reduction, all projects included in such assessment shall be eligible for obligation under this section without further demonstration of emissions reduction of individual projects included in such assessment.
“(j) Suballocation to Nonattainment and Maintenance Areas.—

“(1) In general.—An amount equal to 50 percent of the amount of funds apportioned to each State under section 104(b)(4) (excluding the amount of funds reserved under subsection (l)) shall be suballocated for projects within each area designated as nonattainment or maintenance for the pollutants described in subsection (b).

“(2) Distribution of funds.—The distribution within any State of funds required to be suballocated under paragraph (1) to each nonattainment or maintenance area shall be in accordance with a formula developed by each State and approved by the Secretary, which shall consider the population of each such nonattainment or maintenance area and shall be weighted by the severity of pollution in the manner described in paragraph (6).

“(3) Project selection.—Projects under this subsection shall be selected by a State and shall be consistent with the requirements of sections 134 and 135.

“(4) Priority for use of suballocated funds in PM$_{2.5}$ areas.—
“(A) IN GENERAL.—An amount equal to 50 percent of the funds suballocated under paragraph (1) for a nonattainment or maintenance area that are based all or in part on the weighted population of such area in fine particulate matter nonattainment shall be obligated to projects that reduce such fine particulate matter emissions in such area, including diesel retrofits.

“(B) CONSTRUCTION EQUIPMENT.—An amount equal to 30 percent of the funds required to be set aside under subparagraph (A) shall be obligated to carry out the objectives of section 330.

“(C) OBLIGATION PROCESS.—Each

“(i) IN GENERAL.—Each State or metropolitan planning organization required to obligate funds in accordance with this paragraph shall develop a process to provide funding directly to eligible entities (as defined under section 330) in order to achieve the objectives of such section.

“(ii) OBLIGATION.—A State may obligate suballocated funds designated under this paragraph without regard to any proc-
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cess or other requirement established under this section.

“(5) Funds Not Suballocated.—Except as provided in subsection (c), funds apportioned to a State under section 104(b)(4) (excluding the amount of funds reserved under subsection (l)) and not suballocated under paragraph (1) shall be made available to such State for programming in any nonattainment or maintenance area in the State.

“(6) Factors for Calculation of Suballocation.—

“(A) In General.—For the purposes of paragraph (2), each State shall weight the population of each such nonattainment or maintenance area by a factor of—

“(i) 1.0 if, at the time of the apportionment, the area is a maintenance area for ozone or carbon monoxide;

“(ii) 1.0 if, at the time of the apportionment, the area is classified as a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

“(iii) 1.1 if, at the time of the apportionment, the area is classified as a mod-
erate ozone nonattainment area under sub-
part 2 of part D of title I of the Clean Air
Act (42 U.S.C. 7511 et seq.);

“(iv) 1.2 if, at the time of the appor-
tionment, the area is classified as a serious
ozone nonattainment area under subpart 2
of part D of title I of the Clean Air Act
(42 U.S.C. 7511 et seq.);

“(v) 1.3 if, at the time of the appor-
tionment, the area is classified as a severe
ozone nonattainment area under subpart 2
of part D of title I of the Clean Air Act
(42 U.S.C. 7511 et seq.);

“(vi) 1.5 if, at the time of the appor-
tionment, the area is classified as an ex-
treme ozone nonattainment area under
subpart 2 of part D of title I of the Clean
Air Act (42 U.S.C. 7511 et seq.);

“(vii) 1.0 if, at the time of the apportion-
ment, the area is not a nonattainment
or maintenance area for ozone as described
in section 149(b), but is designated under
section 107 of the Clean Air Act (42
U.S.C. 7407) as a nonattainment area for
carbon monoxide;
“(viii) 1.0 if, at the time of the apportionment, the area is designated as non-
attainment for ozone under section 107 of the Clean Air Act (42 U.S.C. 7407); or
“(ix) 1.2 if, at the time of the apportionment, the area is not a nonattainment
or maintenance area as described in section 149(b) for ozone, but is designated as
a nonattainment or maintenance area for fine particulate matter, 2.5 micrometers or
less, under section 107 of the Clean Air Act (42 U.S.C. 7407).
“(B) OTHER FACTORS.—If, in addition to being designated as a nonattainment or mainte-
nance area for ozone as described in section 149(b), any county within the area was also
designated under section 107 of the Clean Air Act (42 U.S.C. 7407) as a nonattainment or
maintenance area for carbon monoxide, or was designated under section 107 of the Clean Air
Act (42 U.S.C. 7407) as a nonattainment or maintenance area for particulate matter, 2.5
micrometers or less, or both, the weighted non-
attainment or maintenance area population of the county, as determined under clauses (i)
through (vi), or clause (viii), of subparagraph (A), shall be further multiplied by a factor of 1.2, or a second further factor of 1.2 if the area is designated as a nonattainment or maintenance area for both carbon monoxide and particulate matter, 2.5 micrometers or less.

“(7) EXCEPTIONS FOR CERTAIN STATES.—

“(A) A State without a nonattainment or maintenance area shall not be subject to the requirements of this subsection.

“(B) The amount of funds required to be set aside under paragraph (1) in a State that received a minimum apportionment for fiscal year 2009 under section 104(b)(2)(D), as in effect on the day before the date of enactment of the MAP–21, shall be based on the amount of funds such State would otherwise have been apportioned under section 104(b)(4) (excluding the amount of funds reserved under subsection (l)) but for the minimum apportionment in fiscal year 2009.

“(k) PERFORMANCE PLAN.—

“(1) IN GENERAL.—Each tier I metropolitan planning organization (as defined in section 134)
representing a nonattainment or maintenance area shall develop a performance plan that—

“(A) includes an area baseline level for traffic congestion and on-road mobile source emissions for which the area is in nonattainment or maintenance;

“(B) identifies air quality and traffic congestion reduction target levels based on measures established by the Secretary; and

“(C) includes a description of projects identified for funding under this section and a description of how such projects will contribute to achieving emission and traffic congestion reduction targets.

“(2) UPDATED PLANS.—

“(A) IN GENERAL.—Performance plans shall be updated on the schedule required under paragraph (3).

“(B) CONTENTS.—An updated plan shall include a separate report that assesses the progress of the program of projects under the previous plan in achieving the air quality and traffic congestion targets of the previous plan.

“(3) RULEMAKING.—Not later than 18 months after the date of enactment of the MAP–21, the Sec-
retary shall promulgate regulations to implement this subsection that identify performance measures for traffic congestion and on-road mobile source emissions, timelines for performance plans, and requirements under this section for assessing the implementation of projects carried out under this section.

“(l) ADDITIONAL ACTIVITIES.—

“(1) RESERVATION OF FUNDS.—Of the funds apportioned to a State under section 104(b)(4), a State shall reserve the amount of funds attributable to the inclusion of the 10 percent of surface transportation program funds apportioned to such State for fiscal year 2009 in the formula under section 104(b)(4) for projects under this subsection.

“(2) ELIGIBLE PROJECTS.—A State may obligate the funds reserved under this subsection for any of the following projects or activities:

“(A) Transportation enhancements, as defined in section 101.

“(B) The recreational trails program under section 206.

“(C) The safe routes to school program under section 1404 of the SAFETEA-LU (23 U.S.C. 402 note; Public Law 109–59).
(D) Planning, designing, or constructing boulevards, main streets, and other roadways, including—

(i) redesign of an underused highway, particularly a highway that is no longer a principal route after construction of a bypass or Interstate System route, into a boulevard or main street that includes multiple forms of transportation;

(ii) new street construction that enhances multimodal connectivity and includes public transportation, pedestrian walkways, or bicycle infrastructure;

(iii) redesign of a street to enhance connectivity and increase the efficiency of network performance that includes public transportation, pedestrian walkways, or bicycle infrastructure;

(iv) redesign of a highway to support public transportation, including transit-only lanes and priority signalization for transit; or

(v) construction of high-occupancy vehicle lanes and congestion reduction ac-
activities that increase the efficiency of the existing road network.

(E) Providing transportation choices, including—

(i) on-road and off-road trail facilities for pedestrians, bicyclists, and other nonmotorized forms of transportation, including sidewalks, bicycle infrastructure, pedestrian and bicycle signals, traffic calming techniques, lighting, and other safety-related infrastructure, and transportation projects to achieve compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(ii) the planning, design, and construction of infrastructure-related projects and systems that will provide safe routes for non-drivers, including children, older adults, and individuals with disabilities, to access daily needs;

(iii) activities for safety and education for pedestrians and bicyclists and to encourage walking and bicycling, including efforts to encourage walking and bicycling to school and community centers;
“(iv) conversion and use of abandoned railroad corridors for trails for pedestrians, bicyclists, or other nonmotorized transportation users; and

“(v) carpool, vanpool, and car share projects.

“(D) Planning, designing, or constructing boulevards and other roadways largely in the right-of-way of former Interstate System routes or other divided highways.

“(3) Flexibility of excess reserved funding.—Beginning in the second fiscal year after the date of enactment of the MAP–21, if on August 1 of that fiscal year the unobligated balance of available funds apportioned to a State under section 104(b)(4) and reserved by a State under this subsection exceeds 150 percent of such reserved amount in such fiscal year, the State may thereafter obligate the amount of excess funds for any activity—

“(A) that is eligible to receive funding under this subsection; or

“(B) for which the Secretary has approved the obligation of funds for any State under this section.
“(4) Provision of Adequate Data, Modeling, and Support.—In any case in which a State requests reasonable technical support or otherwise requests data (including planning models and other modeling), clarification, or guidance regarding the content of any final rule or applicable regulation material to State actions under this section, the Secretary and any other agency shall provide that support, clarification, or guidance in a timely manner.

“(4)(5) Treatment of Projects.—Notwithstanding any other provision of law, projects funded under this subsection shall be treated as projects on a Federal-aid system under this chapter.”.

SEC. 1114. TERRITORIAL AND PUERTO RICO HIGHWAY PROGRAM.

(a) In General.—Section 165 of title 23, United States Code, is amended to read as follows:

“§ 165. Territorial and Puerto Rico highway program

“(a) Division of Funds.—Of funds made available in a fiscal year for the territorial and Puerto Rico highway program—

“(1) 75 percent shall be for the Puerto Rico highway program under subsection (b); and

“(2) 25 percent shall be for the territorial highway program under subsection (c).
“(b) PUERTO RICO HIGHWAY PROGRAM.—

“(1) IN GENERAL.—The Secretary shall allo-
cate funds made available to carry out this sub-
section to the Commonwealth of Puerto Rico to
carry out a highway program in the Commonwealth.

“(2) TREATMENT OF FUNDS.—Amounts made
available to carry out this subsection for a fiscal
year shall be administered as follows:

“(A) APPORTIONMENT.—

“(i) IN GENERAL.—For the purpose
of imposing any penalty under this title or
title 49, the amounts shall be treated as
being apportioned to Puerto Rico under
sections 104(b) and 144 (as in effect for
fiscal year 1997) for each program funded
under those sections in an amount deter-
mined by multiplying—

“(I) the aggregate of the
amounts for the fiscal year; by

“(II) the proportion that—

“(aa) the amount of funds
apportioned to Puerto Rico for
each such program for fiscal year
1997; bears to
“(bb) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 1997.

“(ii) EXCEPTION.—Funds identified under clause (i) as having been apportioned for the national highway system, the surface transportation program, and the Interstate maintenance program shall be deemed to have been apportioned 50 percent for the national highway performance program and 50 percent for the transportation mobility program for purposes of imposing such penalties.

“(B) PENALTY.—The amounts treated as being apportioned to Puerto Rico under each section referred to in subparagraph (A) shall be deemed to be required to be apportioned to Puerto Rico under that section for purposes of the imposition of any penalty under this title or title 49.

“(C) ELIGIBLE USES OF FUNDS.—Of amounts allocated to Puerto Rico for the Puerto Rico Highway Program for a fiscal year—
“(i) at least 50 percent shall be available only for purposes eligible under section 119;

“(ii) at least 25 percent shall be available only for purposes eligible under section 148; and

“(iii) any remaining funds may be obligated for activities eligible under chapter 1.

“(3) EFFECT ON APPORTIONMENTS.—Except as otherwise specifically provided, Puerto Rico shall not be eligible to receive funds apportioned to States under this title.

“(c) TERRITORIAL HIGHWAY PROGRAM.—

“(1) TERRITORY DEFINED.—In this subsection, the term ‘territory’ means any of the following territories of the United States:

“(A) American Samoa.

“(B) The Commonwealth of the Northern Mariana Islands.

“(C) Guam.

“(D) The United States Virgin Islands.

“(2) PROGRAM.—

“(A) IN GENERAL.—Recognizing the mutual benefits that will accrue to the territories
and the United States from the improvement of highways in the territories, the Secretary may carry out a program to assist each government of a territory in the construction and improvement of a system of arterial and collector highways, and necessary inter-island connectors, that is—

“(i) designated by the Governor or chief executive officer of each territory; and

“(ii) approved by the Secretary.

“(B) Federal share.—The Federal share of Federal financial assistance provided to territories under this subsection shall be in accordance with section 120(g).

“(3) Technical assistance.—

“(A) In general.—To continue a long-range highway development program, the Secretary may provide technical assistance to the governments of the territories to enable the territories, on a continuing basis—

“(i) to engage in highway planning;

“(ii) to conduct environmental evaluations;
“(iii) to administer right-of-way acquisition and relocation assistance programs; and

“(iv) to design, construct, operate, and maintain a system of arterial and collector highways, including necessary inter-island connectors.

“(B) FORM AND TERMS OF ASSISTANCE.—Technical assistance provided under subparagraph (A), and the terms for the sharing of information among territories receiving the technical assistance, shall be included in the agreement required by paragraph (5).

“(4) NONAPPLICABILITY OF CERTAIN PROVISIONS.—

“(A) IN GENERAL.—Except to the extent that provisions of this chapter are determined by the Secretary to be inconsistent with the needs of the territories and the intent of this subsection, this chapter (other than provisions of this chapter relating to the apportionment and allocation of funds) shall apply to funds made available under this subsection.

“(B) APPLICABLE PROVISIONS.—The agreement required by paragraph (5) for each
territory shall identify the sections of this chapter that are applicable to that territory and the extent of the applicability of those sections.

“(5) AGREEMENT.—

“(A) IN GENERAL.—Except as provided in subparagraph (D), none of the funds made available under this subsection shall be available for obligation or expenditure with respect to any territory until the chief executive officer of the territory has entered into an agreement (including an agreement entered into under section 215 as in effect on the day before the enactment of this section) with the Secretary providing that the government of the territory shall—

“(i) implement the program in accordance with applicable provisions of this chapter and paragraph (4);

“(ii) design and construct a system of arterial and collector highways, including necessary inter-island connectors, in accordance with standards that are—

“(I) appropriate for each territory; and

“(II) approved by the Secretary;
“(iii) provide for the maintenance of facilities constructed or operated under this subsection in a condition to adequately serve the needs of present and future traffic; and

“(iv) implement standards for traffic operations and uniform traffic control devices that are approved by the Secretary.

“(B) Technical Assistance.—The agreement required by subparagraph (A) shall—

“(i) specify the kind of technical assistance to be provided under the program;

“(ii) include appropriate provisions regarding information sharing among the territories; and

“(iii) delineate the oversight role and responsibilities of the territories and the Secretary.

“(C) Review and Revision of Agreement.—The agreement entered into under subparagraph (A) shall be reevaluated and, as necessary, revised, at least every 2 years.

“(D) Existing Agreements.—With respect to an agreement under this subsection or
an agreement entered into under section 215 of this title as in effect on the day before the date of enactment of this subsection—

“(i) the agreement shall continue in force until replaced by an agreement entered into in accordance with subparagraph (A); and

“(ii) amounts made available under this subsection under the existing agreement shall be available for obligation or expenditure so long as the agreement, or the existing agreement entered into under subparagraph (A), is in effect.

“(6) ELIGIBLE USES OF FUNDS.—

“(A) IN GENERAL.—Funds made available under this subsection may be used only for the following projects and activities carried out in a territory:

“(i) Eligible transportation mobility program projects described in section 133(c).

“(ii) Cost-effective, preventive maintenance consistent with section 116(d).
“(iii) Ferry boats, terminal facilities, and approaches, in accordance with subsections (b) and (c) of section 129.

“(iv) Engineering and economic surveys and investigations for the planning, and the financing, of future highway programs.

“(v) Studies of the economy, safety, and convenience of highway use.

“(vi) The regulation and equitable taxation of highway use.

“(vii) Such research and development as are necessary in connection with the planning, design, and maintenance of the highway system.

“(B) PROHIBITION ON USE OF FUNDS FOR ROUTINE MAINTENANCE.—None of the funds made available under this subsection shall be obligated or expended for routine maintenance.

“(7) LOCATION OF PROJECTS.—Territorial highway program projects (other than those described in paragraphs (2), (4), (7), (8), (14), and (19) of section 133(c)) may not be undertaken on roads functionally classified as local.”.

(b) CONFORMING AMENDMENTS.—
(1) CLERICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 165 and inserting the following:

“165. Territorial and Puerto Rico highway program.”.

(2) OBSOLETE TEXT.—Section 215 of that title, and the item relating to that section in the analysis for chapter 2, are repealed.

SEC. 1115. NATIONAL FREIGHT PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

“§ 167. National freight program

“(a) NATIONAL FREIGHT PROGRAM.—It is the policy of the United States to improve the condition and performance of the national freight network to ensure that the national freight network provides the foundation for the United States to compete in the global economy and achieve each goal described in subsection (b).

“(b) GOALS.—The goals of the national freight program are—

“(1) to invest in infrastructure improvements and to implement operational improvements that—

“(A) strengthen the contribution of the national freight network to the economic competitiveness of the United States;
“(B) reduce congestion; and

“(C) increase productivity, particularly for domestic industries and businesses that create high-value jobs;

“(2) to reduce the environmental impacts of freight movement on the national freight network;

“(3) to improve the safety, security, and resilience of freight transportation;

“(4) to improve the state of good repair of the national freight network;

“(5) to use advanced technology to improve the safety and efficiency of the national freight network;

“(6) to incorporate concepts of performance, innovation, competition, and accountability into the operation and maintenance of the national freight network; and

“(7) to improve the economic efficiency of the national freight network.

“(c) ESTABLISHMENT OF PROGRAM.—

“(1) IN GENERAL.—The Secretary shall establish and implement a national freight program in accordance with this section to strategically direct Federal resources toward improved system performance for efficient movement of freight on highways, including national highway system freight inter-
modal connectors and aerotropolis transportation systems.

“(2) NETWORK COMPONENTS.—The national freight network shall consist of—

“(A) the primary freight network, as designated by the Secretary under subsection (f) (referred to in this section as the ‘primary freight network’) as most critical to the movement of freight;

“(B) the portions of the Interstate System not designated as part of the primary freight network; and

“(C) critical rural freight corridors established under subsection (g).

“(d) USE OF APPORTIONED FUNDS.—

“(1) PROJECTS ON THE NATIONAL FREIGHT NETWORK.—At a minimum, following designation of the primary freight network under subsection (f), a State shall obligate funds apportioned under section 104(b)(5) to improve the movement of freight on the national freight network.

“(2) LOCATION OF PROJECTS.—A project carried out using funds apportioned under paragraph (1) shall be located—
“(A) on the primary freight network as described under subsection (f);

“(B) on a portion of the Interstate System not designated as primary freight network;

“(C) on roads off of the Interstate System or primary freight network, if that use of funds will provide—

“(i) a more significant improvement to freight movement on the Interstate System or the primary freight network; or

“(ii) critical freight access to the Interstate System or the primary freight network; or

“(iii) mitigation of the congestion impacts from freight movement;

“(D) on a national highway system freight intermodal connector;

“(E) on critical rural freight corridors, as designated under subsection (g) (except that not more than 20 percent of the total anticipated apportionment of a State under section 104(b)(5) during fiscal years 2012 and 2013 may be used for projects on critical rural freight corridors); or
“(F) within the boundaries of public and private intermodal facilities, but shall only include surface infrastructure necessary to facilitate direct intermodal interchange, transfer, and access into and out of the facility.

“(3) PRIMARY FREIGHT NETWORK FUNDING.—Beginning for each fiscal year after the Secretary designates the primary freight network, a State shall obligate from funds apportioned under section 104(b)(5) for the primary freight network the lesser of—

“(A) an amount equal to the product obtained by multiplying—

“(i) an amount equal to 110 percent of the apportionment of the State for the fiscal year under section 104(b)(5); and

“(ii) the proportion that—

“(I) the total designated primary freight network mileage of the State; bears to

“(II) the sum of the designated primary freight network mileage of the State and the total Interstate system mileage of the State that is not
designated as part of the primary freight network; or

“(B) an amount equal to the total apportionment of the State under section 104(b)(5).

“(e) ELIGIBILITY.—

“(1) ELIGIBLE PROJECTS.—To be eligible for funding under this section, a project shall demonstrate the improvement made by the project to the efficient movement of freight on the national freight network.

“(2) FREIGHT RAIL AND MARITIME PROJECTS.—

“(A) IN GENERAL.—A State may obligate an amount equal to not more than 10 percent of the total apportionment to the State under section 104(b)(5) over the period of fiscal years 2012 and 2013 for public or private freight rail or maritime projects.

“(B) ELIGIBILITY.—For a State to be eligible to obligate funds in the manner described in subparagraph (A), the Secretary shall concur with the State that—

“(i) the project for which the State seeks to obligate funds under this paragraph would make freight rail improve-
ments to enhance cross-border commerce within 5 miles of the international border between the United States and Canada or Mexico or make significant improvement to freight movements on the national freight network; and

“(ii) the public benefit of the project—

“(I) exceeds the Federal investment; and

“(II) provides a better return than a highway project on a segment of the primary freight network.

“(3) ELIGIBLE PROJECT COSTS.—A State may obligate funds apportioned to the State under section 104(b)(5) for the national freight program for any of the following costs of an eligible project:

“(A) Development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities.

“(B) Construction, reconstruction, rehabilitation, acquisition of real property (including land relating to the project and improvements
to land), construction contingencies, acquisition
of equipment, and operational improvements di-
rectly relating to improving system perform-
ance, including but not limited to any segment
of the primary freight network that falls below
the minimum level established pursuant to sec-
tion 119(f).

“(C) Intelligent transportation systems
and other technology to improve the flow of
freight.

“(D) Efforts to reduce the environmental
impacts of freight movement on the national
freight network.

“(E) Environmental mitigation.

“(F) Railway-highway grade separation.

“(G) Geometric improvements to inter-
changes and ramps.

“(H) Truck-only lanes.

“(I) Climbing and runaway truck lanes.

“(J) Adding or widening of shoulders.

“(K) Truck parking facilities eligible for
funding under section 1401 of the MAP–21.

“(L) Real-time traffic, truck parking,
roadway condition, and multimodal transpor-
tation information systems.
“(M) Electronic screening and credentialing systems for vehicles, including weigh-in-motion truck inspection technologies.

“(N) Traffic signal optimization including synchronized and adaptive signals.

“(O) Work zone management and information systems.

“(P) Highway ramp metering.

“(Q) Electronic cargo and border security technologies that improve truck freight movement.

“(R) Intelligent transportation systems that would increase truck freight efficiencies inside the boundaries of intermodal facilities.

“(S) Any other activities to improve the flow of freight on the national freight network.

“(4) Other eligible costs.—In addition to eligible project costs, a State may use funds apportioned under section 104(b)(5) for the necessary costs of conducting analyses and data collection to comply with subsection (i) or diesel retrofits or alternative fuel projects defined under section 149 for class 8 vehicles.

“(5) Eligible project costs prior to designation of the primary freight network.—
Prior to the date of designation of the primary freight network, a State may obligate funds apportioned to the State under section 104(b)(5) to improve freight movement on the Interstate System for—

“(A) construction, reconstruction, resurfacing, restoration, and rehabilitation of segments of the Interstate System;

“(B) operational improvements for segments of the Interstate System;

“(C) construction of, and operational improvements for, a Federal-aid highway not on the Interstate System, and construction of a transit project eligible for assistance under chapter 53 of title 49, United States Code, if—

“(i) the highway or transit project is in the same corridor as, and in proximity to a highway designated as a part of, the Interstate System;

“(ii) the construction or improvements would improve the level of service on the Interstate System described in subparagraph (A) and improve freight traffic flow; and
“(iii) the construction or improvements are more cost-effective for freight movement than an improvement to the Interstate System described in subparagraph (A);

“(D) highway safety improvements for segments of the Interstate System;

“(E) transportation planning in accordance with sections 134 and 135;

“(F) the costs of conducting analysis and data collection to comply with this section;

“(G) truck parking facilities eligible for funding under section 1401 of the MAP–21;

“(H) infrastructure-based intelligent transportation systems capital improvements;

“(I) environmental restoration and pollution abatement in accordance with section 328; and

“(J) in accordance with all applicable Federal law (including regulations), participation in natural habitat and wetlands mitigation efforts relating to projects funded under this title, which may include participation in natural habitat and wetlands mitigation banks, contributions to statewide and regional efforts to con-
serve, restore, enhance, and create natural habitats and wetlands, and development of state-wide and regional natural habitat and wetlands conservation and mitigation plans, including any such banks, efforts, and plans developed in accordance with applicable Federal law (including regulations), on the conditions that—

“(i) contributions to those mitigation efforts may—

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

“(II) occur in advance of project construction only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes; and

“(ii) with respect to participation in a natural habitat or wetland mitigation effort relating to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference is given, to the maximum extent practicable, to the use of the mitigation
bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with applicable Federal law (including regulations).

“(f) Designation of Primary Freight Network.—

“(1) Initial designation of primary freight network.—

“(A) Designation.—Not later than 1 year after the date of enactment of this section, the Secretary shall designate a primary freight network—

“(i) based on an inventory of national freight volume conducted by the Administrator of the Federal Highway Administration, in consultation with stakeholders, including system users and transport providers, transport providers, and States; and

“(ii) that shall be comprised of not more than 27,000 centerline miles of existing roadways that are most critical to the movement of freight.

“(B) Factors for designation.—In designating the primary freight network, the Secretary shall consider—
“(i) the origins and destinations of
freight movement in the United States;
“(ii) the total freight tonnage moved
by all modes of transportation;
“(iii) the percentage of annual aver-
age daily truck traffic in the annual aver-
age daily traffic on principal arterials;
“(iv) the annual average daily truck
traffic on principal arterials;
“(v) land and maritime ports of entry;
“(vi) population centers; and
“(vii) network connectivity.

“(2) Additional miles on primary freight
network.—In addition to the miles initially des-
ignated under paragraph (1), the Secretary may in-
crease the number of miles designated as part of the
primary freight network by not more than 3,000 ad-
ditional centerline miles of roadways (which may in-
clude existing or planned roads) critical to future ef-
ficient movement of goods on the primary freight
network.

“(3) Redesignation of primary freight
network.—During calendar year 2015 and every
10 years thereafter, using the designation factors de-
scribed in paragraph (1), the Secretary shall redesig-
nate the primary freight network (including addi-
tional mileage described in subsection (f)(2)).

“(g) CRITICAL RURAL FREIGHT CORRIDORS.—A
State may designate a road within the borders of the State
as a critical rural freight corridor if the road—

“(1) is a rural principal arterial roadway and
has a minimum of 25 percent of the annual average
daily traffic of the road measured in passenger vehi-
icle equivalent units from trucks (FHWA vehicle
class 8 to 13); or

“(2) connects the primary freight network net-
work, a roadway described in paragraph (1), or
Interstate System to facilities that handle more
than—

“(A) 50,000 20-foot equivalent units per
year; or

“(B) 500,000 tons per year of bulk com-
modities.

“(h) NATIONAL FREIGHT STRATEGIC PLAN.—

“(1) INITIAL DEVELOPMENT OF NATIONAL
FREIGHT STRATEGIC PLAN.—Not later than 3 years
after the date of enactment of this section, the Sec-
retary shall, in consultation with appropriate public
and private transportation stakeholders, develop and
post on the Department of Transportation public
website a national freight strategic plan that shall include—

“(A) an assessment of the condition and performance of the national freight network;

“(B) an identification of highway bottlenecks on the national freight network that create significant freight congestion problems;

“(C) forecasts of freight volumes for the 20-year period beginning in the year during which the plan is issued;

“(D) an identification of major trade gateways and national freight corridors that connect major population centers, trade gateways, and other major freight generators for current and forecasted traffic and freight volumes, the identification of which shall be revised, as appropriate, in subsequent plans;

“(E) an assessment of statutory, regulatory, technological, institutional, financial, and other barriers to improved freight transportation performance (including opportunities for overcoming the barriers);

“(F) best practices for improving the performance of the national freight network;
“(G) best practices to mitigate the impacts of freight movement on communities;

“(H) a process for addressing multistate projects and encouraging jurisdictions to collaborate; and

“(I) strategies to improve maritime, freight rail, and freight intermodal connectivity.

“(2) Updates to National Freight Strategic Plan.—Not later than 5 years after the date of completion of the first national freight strategic plan under paragraph (1), and every 5 years thereafter, the Secretary shall update and repost on the Department of Transportation public website a revised national freight strategic plan.

“(i) Freight Performance Targets.—

“(1) Rulemaking.—Not later than 2 years after the date of enactment of this section, the Secretary, in consultation with State departments of transportation and other appropriate public and private transportation stakeholders, shall publish a rulemaking that establishes quantifiable performance measures for freight movement on the primary freight network.

“(2) State Targets and Reporting.—Not later than 1 year after the date on which the Sec-
retary publishes the rulemaking under paragraph (1), each State shall—

“(A) develop and periodically update State performance targets for freight movement on the primary freight network—

“(i) in consultation with appropriate public and private stakeholders; and

“(ii) using measures determined by the Secretary; and

“(B) for every 2-year period, submit to the Secretary a report that contains a description of—

“(i) the progress of the State toward meeting the targets; and

“(ii) the ways in which the State is addressing congestion at freight bottlenecks within the State.

“(3) COMPLIANCE.—

“(A) PERFORMANCE TARGETS.—To obligate funding apportioned under section 104(b)(5), each State shall develop performance targets in accordance with paragraph (2).

“(B) DETERMINATION OF SECRETARY.—If the Secretary determines that a State has not met or made significant progress toward meet-
ing the performance targets of the State by the
date that is 2 years after the date of establish-
ment of the performance targets, until the date
on which the Secretary determines that the
State has met (or has made significant progress
towards meeting) the State performance tar-
gets, the State shall submit to the Secretary, on
a biennial basis, a freight performance improve-
ment plan that includes—

“(i) an identification of significant
freight system trends, needs, and issues
within the State;

“(ii) a description of the freight poli-
cies and strategies that will guide the
freight-related transportation investments
of the State;

“(iii) an inventory of freight bottle-
necks within the State and a description of
the ways in which the State is allocating
funds to improve those bottlenecks; and

“(iv) a description of the actions the
State will undertake to meet the perform-
ance targets of the State.

“(j) Freight Transportation Conditions and
Performance Reports.—Not later than 2 years after
the date of enactment of this section, and biennially there-
after, the Secretary shall prepare a report that contains
a description of the conditions and performance of the na-
tional freight network in the United States.

“(k) TRANSPORTATION INVESTMENT DATA AND
PLANNING TOOLS.—

“(1) IN GENERAL.—Not later than 1 year after
the date of enactment of this section, the Secretary
shall—

“(A) begin development of new tools and
improvement of existing tools or improve exist-
ing tools to support an outcome-oriented, per-
formance-based approach to evaluate proposed
freight-related and other transportation
projects, including—

“(i) methodologies for systematic
analysis of benefits and costs;

“(ii) tools for ensuring that the eval-
uation of freight-related and other trans-
portation projects could consider safety,
economic competitiveness, environmental
sustainability, and system condition in the
project selection process; and

“(iii) other elements to assist in effec-
tive transportation planning;
“(B) identify transportation-related model data elements to support a broad range of eval-
uation methods and techniques to assist in making transportation investment decisions;
and
“(C) at a minimum, in consultation with other relevant Federal agencies, consider any improvements to existing freight flow data col-
lection efforts that could reduce identified freight data gaps and deficiencies and help im-
prove forecasts of freight transportation de-
mand.
“(2) CONSULTATION.—The Secretary shall con-
sult with Federal, State, and other stakeholders to develop, improve, and implement the tools and col-
lect the data in paragraph (1).
“(l) DEFINITION OF AEROTROPOLIS TRANSPOR-
TATION SYSTEM.—For the purposes of this section, the term ‘aerotropolis transportation system’ means a planned and coordinated multimodal freight and passenger trans-
portation network that, as determined by the Secretary, provides efficient, cost-effective, sustainable, and inter-
modal connectivity to a defined region of economic signifi-
cance centered around a major airport.
“(m) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded under this section shall be treated as projects on a Federal-aid highway under this chapter.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following:

“167. National freight program.”.

SEC. 1116. FEDERAL LANDS AND TRIBAL TRANSPORTATION PROGRAMS.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code, is amended by striking sections 201 through 204 and inserting the following:

“§ 201. Federal lands and tribal transportation programs

“(a) PURPOSE.—Recognizing the need for all public Federal and tribal transportation facilities to be treated under uniform policies similar to the policies that apply to Federal-aid highways and other public transportation facilities, the Secretary of Transportation, in collaboration with the Secretaries of the appropriate Federal land management agencies, shall coordinate a uniform policy for all public Federal and tribal transportation facilities that shall apply to Federal lands transportation facilities, tribal transportation facilities, and Federal lands access trans-
“(b) Availability of Funds.—

“(1) Availability.—Funds authorized for the tribal transportation program, the Federal lands transportation program, and the Federal lands access program shall be available for contract upon apportionment, or on October 1 of the fiscal year for which the funds were authorized if no apportionment is required.

“(2) Amount Remaining.—Any amount remaining unexpended for a period of 3 years after the close of the fiscal year for which the funds were authorized shall lapse.

“(3) Obligations.—The Secretary of the department responsible for the administration of funds under this subsection may incur obligations, approve projects, and enter into contracts under such authorizations, which shall be considered to be contractual obligations of the United States for the payment of the cost thereof, the funds of which shall be considered to have been expended when obligated.

“(4) Expenditure.—

“(A) In General.—Any funds authorized for any fiscal year after the date of enactment of this section under the Federal lands transportation program, the Federal lands access
program, and the tribal transportation program
shall be considered to have been expended if a
sum equal to the total of the sums authorized
for the fiscal year and previous fiscal years have
been obligated.

“(B) CREDITED FUNDS.—Any funds de-
scribed in subparagraph (A) that are released
by payment of final voucher or modification of
project authorizations shall be—

“(i) credited to the balance of unobli-
gated authorizations; and

“(ii) immediately available for expend-
iture.

“(5) APPLICABILITY.—This section shall not
apply to funds authorized before the date of enact-
ment of this paragraph.

“(6) CONTRACTUAL OBLIGATION.—

“(A) IN GENERAL.—Notwithstanding any
other provision of law (including regulations),
the authorization by the Secretary, or the Sec-
retary of the appropriate Federal land manage-
ment agency if the agency is the contracting of-

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by contract or agreement authorized by law, or the approval by the Secretary of plans, specifications, and estimates for construction of a project, shall be considered to constitute a contractual obligation of the Federal Government to pay the total eligible cost of—

“(i) any project funded under this title; and

“(ii) any project funded pursuant to agreements authorized by this title or any other title.

“(B) Effect.—Nothing in this paragraph—

“(i) affects the application of the Federal share associated with the project being undertaken under this section; or

“(ii) modifies the point of obligation associated with Federal salaries and expenses.

“(7) Federal share.—

“(A) Tribal and federal lands transportation program.—The Federal share of the cost of a project carried out under the Federal lands transportation program or the tribal transportation program shall be 100 percent.
“(B) Federal lands access program.—The Federal share of the cost of a project carried out under the Federal lands access program shall be determined in accordance with section 120.

“(c) Transportation Planning.—

“(1) Transportation planning procedures.—In consultation with the Secretary of each appropriate Federal land management agency, the Secretary shall implement transportation planning procedures for Federal lands and tribal transportation facilities that are consistent with the planning processes required under sections 134 and 135.

“(2) Approval of transportation improvement program.—The transportation improvement program developed as a part of the transportation planning process under this section shall be approved by the Secretary.

“(3) Inclusion in other plans.—Each regionally significant tribal transportation program, Federal lands transportation program, and Federal lands access program project shall be—

“(A) developed in cooperation with State and metropolitan planning organizations; and
“(B) included in appropriate tribal transportation program plans, Federal lands transportation program plans, Federal lands access program plans, State and metropolitan plans, and transportation improvement programs.

“(4) INCLUSION IN STATE PROGRAMS.—The approved tribal transportation program, Federal lands transportation program, and Federal lands access program transportation improvement programs shall be included in appropriate State and metropolitan planning organization plans and programs without further action on the transportation improvement program.

“(5) ASSET MANAGEMENT.—The Secretary and the Secretary of each appropriate Federal land management agency shall, to the extent appropriate, implement safety, bridge, pavement, and congestion management systems for facilities funded under the tribal transportation program and the Federal lands transportation program in support of asset management.

“(6) DATA COLLECTION.—

“(A) DATA COLLECTION.—The Secretaries of the appropriate Federal land management agencies shall collect and report data necessary
to implement the Federal lands transportation program, the Federal lands access program, and the tribal transportation program, including—

“(i) inventory and condition information on Federal lands transportation facilities and tribal transportation facilities; and

“(ii) bridge inspection and inventory information on any Federal bridge open to the public.

“(B) STANDARDS.—The Secretary, in coordination with the Secretaries of the appropriate Federal land management agencies, shall define the collection and reporting data standards.

“(7) ADMINISTRATIVE EXPENSES.—To implement the activities described in this subsection, including direct support of transportation planning activities among Federal land management agencies, the Secretary may use not more than 5 percent for each fiscal year of the funds authorized for programs under sections 203 and 204.

“(d) REIMBURSABLE AGREEMENTS.—In carrying out work under reimbursable agreements with any State, local, or tribal government under this title, the Secretary—
“(1) may, without regard to any other provision of law (including regulations), record obligations against accounts receivable from the entity; and

“(2) shall credit amounts received from the entity to the appropriate account, which shall occur not later than 90 days after the date of the original request by the Secretary for payment.

“(e) TRANSFERS.—

“(1) IN GENERAL.—To enable the efficient use of funds made available for the Federal lands transportation program and the Federal lands access program, the funds may be transferred by the Secretary within and between each program with the concurrence of, as appropriate—

“(A) the Secretary;

“(B) the affected Secretaries of the respective Federal land management agencies;

“(C) State departments of transportation; and

“(D) local government agencies.

“(2) CREDIT.—The funds described in paragraph (1) shall be credited back to the loaning entity with funds that are currently available for obligation at the time of the credit.
§ 202. Tribal transportation program

“(a) Use of funds.—

“(1) In general.—Funds made available under the tribal transportation program shall be used by the Secretary of Transportation and the Secretary of the Interior to pay the costs of—

“(A)(i) Transportation planning, research, maintenance, engineering, rehabilitation, restoration, construction, and reconstruction of tribal transportation facilities;

“(ii) adjacent vehicular parking areas;

“(iii) interpretive signage;

“(iv) acquisition of necessary scenic easements and scenic or historic sites;

“(v) provisions for pedestrians and bicycles;

“(vi) environmental mitigation in or adjacent to tribal land—

“(I) to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity; and

“(II) to mitigate the damage to wildlife, aquatic organism passage, habitat, and ecosystem connectivity, including the costs of constructing, maintaining, replac-
ing, or removing culverts and bridges, as
appropriate;
“(vii) construction and reconstruction of
roadside rest areas, including sanitary and
water facilities; and
“(viii) other appropriate public road facili-
ties as determined by the Secretary;
“(B) operation and maintenance of transit
programs and facilities that are located on, or
provide access to, tribal land, or are adminis-
tered by a tribal government; and
“(C) any transportation project eligible for
assistance under this title that is located within,
or that provides access to, tribal land, or is as-
associated with a tribal government.
“(2) CONTRACT.—In connection with an activ-
ity described in paragraph (1), the Secretary and the
Secretary of the Interior may enter into a contract
or other appropriate agreement with respect to the
activity with—
“(A) a State (including a political subdivi-
sion of a State); or
“(B) an Indian tribe.
“(3) INDIAN LABOR.—Indian labor may be em-
ployed, in accordance with such rules and regula-
tions as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1).

“(4) FEDERAL EMPLOYMENT.—No maximum limitation on Federal employment shall be applicable to the construction or improvement of tribal transportation facilities.

“(5) FUNDS FOR CONSTRUCTION AND IMPROVEMENT.—All funds made available for the construction and improvement of tribal transportation facilities shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the Interior.

“(6) ADMINISTRATIVE EXPENSES.—

“(A) IN GENERAL.—Of the funds authorized to be appropriated for the tribal transportation program, not more than 6 percent may be used by the Secretary or the Secretary of the Interior for program management and oversight and project-related administrative expenses.

“(B) RESERVATION OF FUNDS.—The Secretary of the Interior may reserve amounts from administrative funds of the Bureau of Indian Affairs that are associated with the tribal
transportation program to fund tribal technical assistance centers under section 504(b).

“(7) MAINTENANCE.—

“(A) USE OF FUNDS.—Notwithstanding any other provision of this title, of the amount of funds allocated to an Indian tribe from the tribal transportation program, for the purpose of maintenance (excluding road sealing, which shall not be subject to any limitation), the Secretary shall not use an amount more than the greater of—

“(i) an amount equal to 25 percent;

or

“(ii) $500,000.

“(B) RESPONSIBILITY OF BUREAU OF INDIAN AFFAIRS AND SECRETARY OF THE INTERIOR.—

“(i) BUREAU OF INDIAN AFFAIRS.—

The Bureau of Indian Affairs shall retain primary responsibility, including annual funding request responsibility, for Bureau of Indian Affairs road maintenance programs on Indian reservations.

“(ii) SECRETARY OF THE INTERIOR.—

The Secretary of the Interior shall ensure
that funding made available under this subsection for maintenance of tribal transportation facilities for each fiscal year is supplementary to, and not in lieu of, any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.

“(C) Tribal-state road maintenance agreements.—

“(i) In general.—An Indian tribe and a State may enter into a road maintenance agreement under which an Indian tribe shall assume the responsibility of the State for—

“(I) tribal transportation facilities; and

“(II) roads providing access to tribal transportation facilities.

“(ii) Requirements.—Agreements entered into under clause (i) shall—

“(I) be negotiated between the State and the Indian tribe; and

“(II) not require the approval of the Secretary.

“(8) Cooperation.—
“(A) IN GENERAL.—The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.

“(B) FUNDS RECEIVED.—Any funds received from a State, county, or local subdivision shall be credited to appropriations available for the tribal transportation program.

“(9) COMPETITIVE BIDDING.—

“(A) CONSTRUCTION.—

“(i) IN GENERAL.—Subject to clause (ii) and subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

“(ii) EXCEPTION.—Clause (i) shall not apply if the Secretary or the Secretary of the Interior affirmatively finds that, under the circumstances relating to the project, a different method is in the public interest.

“(B) APPLICABILITY.—Notwithstanding subparagraph (A), section 23 of the Act of June 25, 1910 (25 U.S.C. 47) and section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)) shall apply to all funds administered by the Secretary of
the Interior that are appropriated for the construction and improvement of tribal transportation facilities.

“(b) Funds Distribution.—

“(1) National Tribal Transportation Facility Inventory.—

“(A) In general.—The Secretary of the Interior, in cooperation with the Secretary, shall maintain a comprehensive national inventory of tribal transportation facilities that are eligible for assistance under the tribal transportation program.

“(B) Transportation facilities included in the inventory.—For purposes of identifying the tribal transportation system and determining the relative transportation needs among Indian tribes, the Secretary shall include, at a minimum, transportation facilities that are eligible for assistance under the tribal transportation program that an Indian tribe has requested, including facilities that—

“(i) were included in the Bureau of Indian Affairs system inventory prior to October 1, 2004;
“(ii) are owned by an Indian tribal government;

“(iii) are owned by the Bureau of Indian Affairs;

“(iv) were constructed or reconstructed with funds from the Highway Account of the Transportation Trust Fund under the Indian reservation roads program since 1983;

“(v) are public roads or bridges within the exterior boundary of Indian reservations, Alaska Native villages, and other recognized Indian communities (including communities in former Indian reservations in the State of Oklahoma) in which the majority of residents are American Indians or Alaska Natives; or

“(vi) are public roads within or providing access to an Indian reservation or Indian trust land or restricted Indian land that is not subject to fee title alienation without the approval of the Federal Government, or Indian or Alaska Native villages, groups, or communities in which Indians and Alaska Natives reside, whom the Sec-
Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians; or

“(vi)(vii) are primary access routes proposed by tribal governments, including roads between villages, roads to landfills, roads to drinking water sources, roads to natural resources identified for economic development, and roads that provide access to intermodal terminals, such as airports, harbors, or boat landings.

“(C) LIMITATION ON PRIMARY ACCESS ROUTES.—For purposes of this paragraph, a proposed primary access route is the shortest practicable route connecting 2 points of the proposed route.

“(D) ADDITIONAL FACILITIES.—Nothing in this paragraph precludes the Secretary from including additional transportation facilities that are eligible for funding under the tribal transportation program in the inventory used for the national funding allocation if such additional facilities are included in the inventory in a uniform and consistent manner nationally.
“(E) **BRIDGES.**—All bridges in the inventory shall be recorded in the national bridge inventory administered by the Secretary under section 144.

“(2) **REGULATIONS.**—Notwithstanding sections 563(a) and 565(a) of title 5, the Secretary of the Interior shall maintain any regulations governing the tribal transportation program.

“(3) **BASIS FOR FUNDING FORMULA.**—

“(A) **BASIS.**—

“(i) **IN GENERAL.**—After making the set asides authorized under subsections (a)(6), (e), (d), and (e) on October 1 of each fiscal year, the Secretary shall distribute the remainder authorized to be appropriated for the tribal transportation program under this section among Indian tribes as follows:

“(I) For fiscal year 2012—

“(aa) 50 percent, equal to the ratio that the amount allocated to each tribe for fiscal year 2011 bears to the total amount allocated to all tribes for that fiscal year; and
“(aa) 50 percent, equal to the ratio that the amount allocated to each tribe as a tribal share for fiscal year 2011 bears to the total tribal share amount allocated to all tribes for that fiscal year; and

“(bb) the remainder using tribal shares as described in subparagraphs (B) and (C).

“(II) For fiscal year 2013 and thereafter, using tribal shares as described in subparagraphs (B) and (C).

“(ii) Tribal High Priority Projects.—The High Priority Projects program as included in the Tribal Transportation Allocation Methodology of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP–21), shall not continue in effect.

“(B) Tribal shares. — Tribal shares under this program shall be determined using the national tribal transportation facility inventory as calculated for fiscal year 2012, and the most recent data on American Indian and Alas-
ka Native population within each Indian tribe’s American Indian/Alaska Native Reservation or Statistical Area, as computed under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.), in the following manner:

“(i) 20 percent in the ratio that the total eligible lane mileage in each tribe bears to the total eligible lane mileage of all American Indians and Alaskan Natives. For the purposes of this calculation—

“(I) eligible lane mileage shall be computed based on the inventory described in paragraph (1), using only facilities included in the inventory described in clause (i), (ii), or (iii) of paragraph (1)(B); and

“(II) paved roads and gravel surfaced roads are deemed to equal 2 lane miles per mile of inventory, and earth surfaced roads and unimproved roads shall be deemed to equal 1 lane mile per mile of inventory.

“(ii) 40 percent in the ratio that the total population in each tribe bears to the
total population of all American Indians and Alaskan Natives.

“(iii) 40 percent shall be divided equally among each Bureau of Indian Affairs region for distribution of tribal shares as follows:

“(I) 1⁄4 of 1 percent shall be distributed equally among Indian tribes with populations of 1 to 25.

“(II) 3⁄4 of 1 percent shall be distributed equally among Indian tribes with populations of 26 to 100.

“(III) 3 3⁄4 percent shall be distributed equally among Indian tribes with populations of 101 to 1,000.

“(IV) 20 percent shall be distributed equally among Indian tribes with populations of 1,001 to 10,000.

“(V) 74 3⁄4 percent shall be distributed equally among Indian tribes with populations of 10,001 to 60,000 where 3 or more Indian tribes occupy this category in a single Bureau of Indian Affairs region, and Bureau of Indian Affairs regions containing less
than 3 Indian tribes in this category shall receive funding in accordance with subclause (IV) and clause (iv).

“(VI) 1⁄2 of 1 percent shall be distributed equally among Indian tribes with populations of 60,001 or more.

“(iv) For a Bureau of Indian Affairs region that has no Indian tribes meeting the population criteria under 1 or more of subclauses (I) through (VI) of clause (iii), the region shall redistribute any funds subject to such clause or clauses among any such clauses for which the region has Indian tribes meeting such criteria proportionally in accordance with the percentages listed in such clauses until such funds are completely distributed.

“(C) TRIBAL SUPPLEMENTAL FUNDING.—

“(i) TRIBAL SUPPLEMENTAL FUNDING AMOUNT.—Of funds made available for each fiscal year for the tribal transportation program, the Secretary shall set aside the following amount for a tribal supplemental program:
“(I) If the amount made available for the tribal transportation program is less than or equal to $275,000,000, 10 percent of such amount.

“(II) If the amount made available for the tribal transportation program exceeds $275,000,000—

“(aa) $27,500,000; plus

“(bb) 12.5 percent of the amount made available for the tribal transportation program in excess of $275,000,000.

“(ii) TRIBAL SUPPLEMENTAL ALLOCATION.—The Secretary shall distribute tribal supplemental funds as follows:

“(I) DISTRIBUTION AMONG REGIONS.—Of the amounts set aside under clause (i), the Secretary shall distribute to each region of the Bureau of Indian Affairs a share of tribal supplemental funds in proportion to the regional total of tribal shares based on the cumulative tribal shares
of all Indian tribes within such region under subparagraph (B).

“(II) DISTRIBUTION WITHIN A REGION.—Of the amount that a region receives under subclause (I), the Secretary shall distribute tribal supplemental funding among Indian tribes within such region as follows:

“(aa) TRIBAL SUPPLEMENTAL AMOUNTS.—The Secretary shall determine—

“(AA) which such Indian tribes would be entitled under subparagraph (A) to receive in a fiscal year less funding than they would receive in fiscal year 2011 pursuant to the Tribal Transportation Allocation Methodology described in subpart C of part 170 of title 25, Code of Federal Regulations (as in effect on the date of enactment of the MAP–21); and
“(BB) the combined amount that such Indian tribes would be entitled to receive in fiscal year 2011 pursuant to such Tribal Transportation Allocation Methodology in excess of the amount that they would be entitled to receive in the fiscal year under subparagraph (B); and

“(bb) Subject to subclause (III), distribute to each Indian tribe that meets the criteria described in item (aa)(AA) a share of funding under this subparagraph in proportion to the share of the combined amount determined under item (aa)(BB) attributable to such Indian tribe.

“(III) CEILING.—An Indian tribe may not receive under subclause (II) and based on its tribal share under subparagraph (A) a combined amount that exceeds the amount that such In-
dian tribe would be entitled to receive
in fiscal year 2011 pursuant to the
Tribal Transportation Allocation
Methodology described in subpart C of
part 170 of title 25, Code of Federal
Regulations (as in effect on the date
of enactment of the MAP–21).

“(IV) OTHER AMOUNTS.—If the
amount made available for a region
under subclause (I) exceeds the
amount distributed among Indian
tribes within that region under sub-
clause (II), the Secretary shall dis-
tribute the remainder of such region’s
funding under such subclause among
all Indian tribes in that region in pro-
portion to the combined amount that
each such Indian tribe received under
subparagraph (A) and subclauses (I),
(II), and (III).

“(4) TRANSFERRED FUNDS.—
“(A) IN GENERAL.—Not later than 30
days after the date on which funds are made
available to the Secretary of the Interior under
this paragraph, the funds shall be distributed
to, and made available for immediate use by, el-
igible Indian tribes, in accordance with the for-
mula for distribution of funds under the tribal
transportation program.

“(B) USE OF FUNDS.—Notwithstanding
any other provision of this section, funds made
available to Indian tribes for tribal transpor-
tation facilities shall be expended on projects
identified in a transportation improvement pro-
gram approved by the Secretary.

“(5) HEALTH AND SAFETY ASSURANCES.—Not-
withstanding any other provision of law, an Indian
tribal government may approve plans, specifications,
and estimates and commence road and bridge con-
struction with funds made available from the tribal
transportation program through a contract or agree-
ment under Indian Self-Determination and Edu-
cation Assistance Act (25 U.S.C. 450 et seq.), if the
Indian tribal government—

“(A) provides assurances in the contract or
agreement that the construction will meet or ex-
ceed applicable health and safety standards;

“(B) obtains the advance review of the
plans and specifications from a State-licensed
civil engineer that has certified that the plans
and specifications meet or exceed the applicable
health and safety standards; and

“(C) provides a copy of the certification
under subparagraph (A) to the Deputy Assistant
Secretary for Tribal Government Affairs,
Department of Transportation, or the Assistant
Secretary for Indian Affairs, Department of the
Interior, as appropriate.

“(6) CONTRACTS AND AGREEMENTS WITH IN-
DIAN TRIBES.—

“(A) IN GENERAL.—Notwithstanding any
other provision of law or any interagency agree-
ment, program guideline, manual, or policy di-
rective, all funds made available through the
Secretary of the Interior under this chapter and
section 125(e) for tribal transportation facilities
to pay for the costs of programs, services, func-
tions, and activities, or portions of programs,
services, functions, or activities, that are specifi-
cally or functionally related to the cost of plan-
ning, research, engineering, and construction of
any tribal transportation facility shall be made
available, upon request of the Indian tribal gov-
ernment, to the Indian tribal government for
contracts and agreements for such planning, re-

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search, engineering, and construction in accordance with Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(B) EXCLUSION OF AGENCY PARTICIPATION.—All funds, including contract support costs, for programs, functions, services, or activities, or portions of programs, services, functions, or activities, including supportive administrative functions that are otherwise contractible to which subparagraph (A) applies, shall be paid in accordance with subparagraph (A), without regard to the organizational level at which the Department of the Interior has previously carried out such programs, functions, services, or activities.

“(7) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—

“(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available through the Secretary of the Interior to an Indian tribal government under this chapter for a tribal transportation facility program or project shall be made available, on the request of the Indian
tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), contracts and agreements for the planning, research, design, engineering, construction, and maintenance relating to the program or project.

“(B) Exclusion of Agency Participation.—In accordance with subparagraph (A), all funds, including contract support costs, for a program or project to which subparagraph (A) applies shall be paid to the Indian tribal government without regard to the organizational level at which the Department of the Interior has previously carried out, or the Department of Transportation has previously carried out under the tribal transportation program, the programs, functions, services, or activities involved.

“(C) Consortia.—Two or more Indian tribes that are otherwise eligible to participate in a program or project to which this chapter applies may form a consortium to be considered as a single Indian tribe for the purpose of participating in the project under this section.
“(D) Secretary as signatory.—Notwithstanding any other provision of law, the Secretary is authorized to enter into a funding agreement with an Indian tribal government to carry out a tribal transportation facility program or project under subparagraph (A) that is located on an Indian reservation or provides access to the reservation or a community of the Indian tribe.

“(E) Funding.—The amount an Indian tribal government receives for a program or project under subparagraph (A) shall equal the sum of the funding that the Indian tribal government would otherwise receive for the program or project in accordance with the funding formula established under this subsection and such additional amounts as the Secretary determines equal the amounts that would have been withheld for the costs of the Bureau of Indian Affairs for administration of the program or project.

“(F) Eligibility.—

“(i) In general.—Subject to clause (ii) and the approval of the Secretary, funds may be made available under sub-
paragraph (A) to an Indian tribal government for a program or project in a fiscal year only if the Indian tribal government requesting such funds demonstrates to the satisfaction of the Secretary financial stability and financial management capability during the 3 fiscal years immediately preceding the fiscal year for which the request is being made.

“(ii) CONSIDERATIONS.—An Indian tribal government that had no uncorrected significant and material audit exceptions in the required annual audit of the contracts or self-governance funding agreements made by the Indian tribe with any Federal agency under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) during the 3-fiscal year period referred in clause (i) shall be conclusive evidence of the financial stability and financial management capability of the Indian tribe for purposes of clause (i).

“(G) ASSUMPTION OF FUNCTIONS AND DUTIES.—An Indian tribal government receiving funding under subparagraph (A) for a program
or project shall assume all functions and duties that the Secretary of the Interior would have performed with respect to a program or project under this chapter, other than those functions and duties that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(H) POWERS.—An Indian tribal government receiving funding under subparagraph (A) for a program or project shall have all powers that the Secretary of the Interior would have exercised in administering the funds transferred to the Indian tribal government for such program or project under this section if the funds had not been transferred, except to the extent that such powers are powers that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

“(I) DISPUTE RESOLUTION.—In the event of a disagreement between the Secretary or the Secretary of the Interior and an Indian tribe over whether a particular function, duty, or power may be lawfully transferred to the Indian
tribe under the Indian Self-Determination and
Education Assistance Act (25 U.S.C. 450 et seq.), the Indian tribe shall have the right to
pursue all alternative dispute resolution and ap-
peal procedures authorized by that Act, includ-
ing regulations issued to carry out the Act.

“(J) TERMINATION OF CONTRACT OR AGREEMENT.—On the date of the termination
of a contract or agreement under this section
by an Indian tribal government, the Secretary
shall transfer all funds that would have been al-
located to the Indian tribal government under
the contract or agreement to the Secretary of
the Interior to provide continued transportation
services in accordance with applicable law.

“(c) PLANNING.—

“(1) IN GENERAL.—For each fiscal year, not
more than 2 percent of the funds made available for
the tribal transportation program shall be allocated
among Indian tribal governments that apply for
transportation planning pursuant to the Indian Self-
Determination and Education Assistance Act (25
U.S.C. 450 et seq.).

“(2) REQUIREMENT.—An Indian tribal govern-
ment, in cooperation with the Secretary of the Inte-
rior and, as appropriate, with a State, local government, or metropolitan planning organization, shall carry out a transportation planning process in accordance with section 201(c).

“(3) Selection and approval of projects.—A project funded under this section shall be—

“(A) selected by the Indian tribal government from the transportation improvement program; and

“(B) subject to the approval of the Secretary of the Interior and the Secretary.

“(d) Tribal Transportation Facility Bridges.—

“(1) Nationwide priority program.—The Secretary shall maintain a nationwide priority program for improving deficient bridges eligible for the tribal transportation program.

“(2) Funding.—Before making any distribution under subsection (b), the Secretary shall set aside not more than 2 percent of the funds made available under the tribal transportation program for each fiscal year to be allocated—

“(A) to carry out any planning, design, engineering, preconstruction, construction, and in-
pection of a project to replace, rehabilitate, seismically retrofit, paint, apply calcium magne-
sium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing composition; or

“(B) to implement any countermeasure for deficient tribal transportation facility bridges, including multiple-pipe culverts.

“(3) ELIGIBLE BRIDGES.—To be eligible to receive funding under this subsection, a bridge described in paragraph (1) shall—

“(A) have an opening of not less than 20 feet;

“(B) be classified as a tribal transportation facility; and

“(C) be structurally deficient or functionally obsolete.

“(4) APPROVAL REQUIREMENT.—The Secretary may make funds available under this subsection for preliminary engineering, construction, and construction engineering activities after approval of required documentation and verification of eligibility in accordance with this title.

“(e) SAFETY.—
“(1) FUNDING.—Before making any distribution under subsection (b), the Secretary shall set aside not more than 2 percent of the funds made available under the tribal transportation program for each fiscal year to be allocated based on an identification and analysis of highway safety issues and opportunities on tribal land, as determined by the Secretary, on application of the Indian tribal governments for eligible projects described in section 148(a)(4).

“(2) PROJECT SELECTION.—An Indian tribal government, in cooperation with the Secretary of the Interior and, as appropriate, with a State, local government, or metropolitan planning organization, shall select projects from the transportation improvement program, subject to the approval of the Secretary and the Secretary of the Interior.

“(f) FEDERAL-AID ELIGIBLE PROJECTS.—Before approving as a project on a tribal transportation facility any project eligible for funds apportioned under section 104 in a State, the Secretary shall, for projects on tribal transportation facilities, determine that the obligation of funds for the project is supplementary to and not in lieu of the obligation of a fair and equitable share of funds apportioned to the State under section 104.
§ 203. Federal lands transportation program

“(a) Use of Funds.—

“(1) In general.—Funds made available under the Federal lands transportation program shall be used by the Secretary of Transportation and the Secretary of the appropriate Federal land management agency to pay the costs of—

“(A) program administration, transportation planning, research, preventive maintenance, engineering, rehabilitation, restoration, construction, and reconstruction of Federal lands transportation facilities, and—

“(i) adjacent vehicular parking areas;

“(ii) acquisition of necessary scenic easements and scenic or historic sites;

“(iii) provision for pedestrians and bicycles;

“(iv) environmental mitigation in or adjacent to Federal land open to the public—

“(I) to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity; and

“(II) to mitigate the damage to wildlife, aquatic organism passage,
habitat, and ecosystem connectivity,
including the costs of constructing,
maintaining, replacing, or removing
culverts and bridges, as appropriate;
“(v) construction and reconstruction
of roadside rest areas, including sanitary
and water facilities;
“(vi) congestion mitigation; and
“(vii) other appropriate public road
facilities, as determined by the Secretary;
“(B) operation and maintenance of transit
facilities; and
“(C) any transportation project eligible for
assistance under this title that is on a public
road within or adjacent to, or that provides ac-
cess to, Federal lands open to the public.
“(2) CONTRACT.—In connection with an activ-
ity described in paragraph (1), the Secretary and the
Secretary of the appropriate Federal land manage-
ment agency may enter into a contract or other ap-
propriate agreement with respect to the activity
with—
“(A) a State (including a political subdivi-
sion of a State); or
“(B) an Indian tribe.
“(3) Administration.—All appropriations for the construction and improvement of Federal lands transportation facilities shall be administered in conformity with regulations and agreements jointly approved by the Secretary and the Secretary of the appropriate Federal land managing agency.

“(4) Cooperation.—

“(A) In general.—The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.

“(B) Funds received.—Any funds received from a State, county, or local subdivision shall be credited to appropriations available for the class of Federal lands transportation facilities to which the funds were contributed.

“(5) Competitive Bidding.—

“(A) In general.—Subject to subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

“(B) Exception.—Subparagraph (A) shall not apply if the Secretary or the Secretary of the appropriate Federal land management agency affirmatively finds that, under the cir-
cumstances relating to the project, a different
method is in the public interest.

“(b) AGENCY PROGRAM DISTRIBUTIONS.—

“(1) IN GENERAL.—On October 1, 2011, and
on October 1 of each fiscal year thereafter, the Sec-
retary shall allocate the sums authorized to be ap-
propriated for the fiscal year for the Federal lands
transportation program on the basis of applications
of need, as determined by the Secretary—

“(A) in consultation with the Secretaries of
the applicable Federal land management agen-
cies; and

“(B) in coordination with the transpor-
tation plans required under section 201 of the
respective transportation systems of—

“(i) the National Park Service;
“(ii) the Forest Service;
“(iii) the United States Fish and
Wildlife Service;
“(iv) the Corps of Engineers; and
“(v) the Bureau of Land Manage-
ment.

“(2) APPLICATIONS.—

“(A) REQUIREMENTS.—Each application
submitted by a Federal land management agen-
cy shall include proposed programs at various
potential funding levels, as defined by the Sec-
retary following collaborative discussions with
applicable Federal land management agencies.

“(B) CONSIDERATION BY SECRETARY.—In
evaluating an application submitted under sub-
paragraph (A), the Secretary shall consider the
extent to which the programs support—

“(i) the transportation goals of—

“(I) a state of good repair of
transportation facilities;

“(II) a reduction of bridge defi-
ciencies, and

“(III) an improvement of safety;

“(ii) high-use Federal recreational
sites or Federal economic generators; and

“(iii) the resource and asset manage-
ment goals of the Secretary of the respec-
tive Federal land management agency.

“(C) PERMISSIVE CONTENTS.—Applica-
tions may include proposed programs the dura-
tion of which extend over a multiple-year period
to support long-term transportation planning
and resource management initiatives.
“(c) National Federal Lands Transportation Facility Inventory.—

“(1) In General.—The Secretaries of the appropriate Federal land management agencies, in cooperation with the Secretary, shall maintain a comprehensive national inventory of public Federal lands transportation facilities.

“(2) Transportation Facilities Included in the Inventories.—To identify the Federal lands transportation system and determine the relative transportation needs among Federal land management agencies, the inventories shall include, at a minimum, facilities that—

“(A) provide access to high-use Federal recreation sites or Federal economic generators, as determined by the Secretary in coordination with the respective Secretaries of the appropriate Federal land management agencies; and

“(B) are owned by 1 of the following agencies:

“(i) The National Park Service.

“(ii) The Forest Service.

“(iii) The United States Fish and Wildlife Service.
“(iv) The Bureau of Land Management.

“(v) The Corps of Engineers.

“(3) Availability.—The inventories shall be made available to the Secretary.

“(4) Updates.—The Secretaries of the appropriate Federal land management agencies shall update the inventories of the appropriate Federal land management agencies, as determined by the Secretary after collaborative discussions with the Secretaries of the appropriate Federal land management agencies.

“(5) Review.—A decision to add or remove a facility from the inventory shall not be considered a Federal action for purposes of review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(d) Bicycle Safety.—The Secretary of the appropriate Federal land management agency shall prohibit the use of bicycles on each federally owned road that has a speed limit of 30 miles per hour or greater and an adjacent paved path for use by bicycles within 100 yards of the road.

“§ 204. Federal lands access program

“(a) Use of Funds.—
“(1) IN GENERAL.—Funds made available under the Federal lands access program shall be used by the Secretary of Transportation and the Secretary of the appropriate Federal land management agency to pay the cost of—

“(A) transportation planning, research, engineering, preventive maintenance, rehabilitation, restoration, construction, and reconstruction of Federal lands access transportation facilities located on or adjacent to, or that provide access to, Federal land, and—

“(i) adjacent vehicular parking areas;

“(ii) acquisition of necessary scenic easements and scenic or historic sites;

“(iii) provisions for pedestrians and bicycles;

“(iv) environmental mitigation in or adjacent to Federal land—

“(I) to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity; and

“(II) to mitigate the damage to wildlife, aquatic organism passage, habitat, and ecosystem connectivity,
including the costs of constructing,
maintaining, replacing, or removing
culverts and bridges, as appropriate;
“(v) construction and reconstruction
of roadside rest areas, including sanitary
and water facilities; and
“(vi) other appropriate public road fa-
cilities, as determined by the Secretary;
“(B) operation and maintenance of transit
facilities; and
“(C) any transportation project eligible for
assistance under this title that is within or ad-
jacent to, or that provides access to, Federal
land.
“(2) CONTRACT.—In connection with an activ-
ity described in paragraph (1), the Secretary and the
Secretary of the appropriate Federal land manage-
ment agency may enter into a contract or other ap-
propiate agreement with respect to the activity
with—
“(A) a State (including a political subdivi-
sion of a State); or
“(B) an Indian tribe.
“(3) ADMINISTRATION.—All appropriations for
the construction and improvement of Federal lands
access transportation facilities shall be administered in conformity with regulations and agreements approved by the Secretary.

“(4) COOPERATION.—

“(A) IN GENERAL.—The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.

“(B) FUNDS RECEIVED.—Any funds received from a State, county, or local subdivision for a Federal lands access transportation facility project shall be credited to appropriations available under the Federal lands access program.

“(5) COMPETITIVE BIDDING.—

“(A) IN GENERAL.—Subject to subparagraph (B), construction of each project shall be performed by contract awarded by competitive bidding.

“(B) EXCEPTION.—Subparagraph (A) shall not apply if the Secretary or the Secretary of the appropriate Federal land management agency affirmatively finds that, under the circumstances relating to the project, a different method is in the public interest.

“(b) PROGRAM DISTRIBUTIONS.—
“(1) In general.—Funding made available to carry out the Federal lands access program shall be allocated among those States that have Federal land, in accordance with the following formula:

“(A) 80 percent of the available funding for use in those States that contain at least 1\(\frac{1}{2}\) percent of the total public land in the United States managed by the agencies described in paragraph (2), to be distributed as follows:

“(i) 30 percent in the ratio that—

“(I) recreational visitation within each such State; bears to

“(II) the recreational visitation within all such States.

“(ii) 5 percent in the ratio that—

“(I) the Federal land area within each such State; bears to

“(II) the Federal land area in all such States.

“(iii) 55 percent in the ratio that—

“(I) the Federal public road miles within each such State; bears to

“(II) the Federal public road miles in all such States.

“(iv) 10 percent in the ratio that—
“(I) the number of Federal public bridges within each such State;

bears to

“(II) the number of Federal public bridges in all such States.

“(B) 20 percent of the available funding for use in those States that do not contain at least 1 ½ percent of the total public land in the United States managed by the agencies described in paragraph (2), to be distributed as follows:

“(i) 30 percent in the ratio that—

“(I) recreational visitation within each such State; bears to

“(II) the recreational visitation within all such States.

“(ii) 5 percent in the ratio that—

“(I) the Federal land area within each such State; bears to

“(II) the Federal land area in all such States.

“(iii) 55 percent in the ratio that—

“(I) the Federal public road miles within each such State; bears to
“(II) the Federal public road miles in all such States.

“(iv) 10 percent in the ratio that—

“(I) the number of Federal pub-

dic bridges within each such State;

bears to

“(II) the number of Federal pub-

dic bridges in all such States.

“(2) DATA SOURCE.—Data necessary to dis-

tribute funding under paragraph (1) shall be pro-

vided by the following Federal land management

agencies:

“(A) The National Park Service.

“(B) The Forest Service.

“(C) The United States Fish and Wildlife

Service.

“(D) The Bureau of Land Management.

“(E) The Corps of Engineers.

“(c) PROGRAMMING DECISIONS COMMITTEE.—

“(1) IN GENERAL.—Programming decisions

shall be made within each State by a committee

comprised of—

“(A) a representative of the Federal High-

way Administration;
“(B) a representative of the State Department of Transportation; and

“(C) a representative of any appropriate political subdivision of the State.

“(2) Consultation Requirement.—The committee described in paragraph (1) shall consult with each applicable Federal agency in each State before any joint discussion or final programming decision.

“(3) Project Preference.—In making a programming decision under paragraph (1), the committee shall give preference to projects that provide access to, are adjacent to, or are located within high-use Federal recreation sites or Federal economic generators, as identified by the Secretaries of the appropriate Federal land management agencies.”.

(b) Public Lands Development Roads and Trails.—Section 214 of title 23, United States Code, is repealed.

(c) Conforming Amendments.—

(1) Chapter 2 Analysis.—The analysis for chapter 2 of title 23, United States Code, is amended:

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(A) By striking the items relating to sections 201 through 204 and inserting the following:

"201. Federal lands and tribal transportation programs.
202. Tribal transportation program.
203. Federal lands transportation program.
204. Federal lands access program."

(B) By striking the item relating to section 214.

(2) DEFINITION.—Section 138(a) of title 23, United States Code, is amended in the third sentence by striking "park road or parkway under section 204 of this title" and inserting "Federal lands transportation facility".

(3) RULES, REGULATIONS, AND RECOMMENDATIONS.—Section 315 of title 23, United States Code, is amended by striking "204(f)" and inserting "202(a)(5), 203(a)(3)."

SEC. 1117. ALASKA HIGHWAY.

Section 218 of title 23, United States Code, is amended to read as follows:

"§ 218. Alaska Highway

(a) DEFINITION OF ALASKA MARINE HIGHWAY SYSTEM.—In this section, the term ‘Alaska Marine Highway System’ includes each existing or planned transportation facility and equipment in the State of Alaska relating to the ferry system of the State, including the lease,
purchase, or construction of vessels, terminals, docks, 
floats, ramps, staging areas, parking lots, bridges, and ap-
proaches thereto, and necessary roads.

“(b) AUTHORIZATION OF SECRETARY.—

“(1) IN GENERAL.—Recognizing the benefits 
that will accrue to the State of Alaska and to the 
United States from the reconstruction of the Alaska 
Highway from the Alaskan border to Haines Junction in Canada and the Haines Cutoff Highway from 
Haines Junction in Canada to Haines, the Secretary 
is authorized, upon agreement with the State of 
Alaska, to expend on such highway or the Alaska 
Marine Highway System any Federal-aid highway 
funds apportioned to the State of Alaska under this 
title to provide for necessary reconstruction of such 
highway.

“(2) LIMITATION.—No expenditures shall be 
made for the construction of the portion of the high-
ways that are in located in Canada until the date on 
which an agreement has been reached by the Gov-
ernment of Canada and the Government of the 
United States, which shall provide in part, that the 
Canadian Government—

“(A) will provide, without participation of 
funds authorized under this title, all necessary
right-of-way for the construction of the highways;

“(B) will not impose any highway toll, or permit any toll to be charged for the use of the highways by vehicles or persons;

“(C) will not levy or assess, directly or indirectly, any fee, tax, or other charge for the use of the highways by vehicles or persons from the United States that does not apply equally to vehicles or persons of Canada;

“(D) will continue to grant reciprocal recognition of vehicle registration and drivers’ licenses in accordance with agreements between the United States and Canada; and

“(E) will maintain the highways after the date of completion of the highways in proper condition adequately to serve the needs of present and future traffic.

“(c) SUPERVISION OF SECRETARY.—The survey and construction work undertaken in Canada pursuant to this section shall be under the general supervision of the Secretary.”.
SEC. 1118. PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE.

(a) Establishment of Program.—The Secretary shall establish a program in accordance with this section to provide grants for projects of national and regional significance.

(b) Purpose of Program.—The purpose of the projects of national and regional significance program shall be to fund critical high-cost surface transportation infrastructure projects that are difficult to complete with existing Federal, State, local, and private funds and that will—

(1) generate national and regional economic benefits and increase global economic competitiveness;

(2) reduce congestion and its impacts;

(3) improve roadways vital to national energy security;

(4) improve movement of freight and people; and

(5) improve transportation safety.

(c) Definitions.—In this section:

(1) Eligible Applicant.—The term “eligible applicant” means a State department of transportation or a group of State departments of transportation, a local government, a tribal government or
consortium of tribal governments, a transit agency, a port authority, a metropolitan planning organization, other political subdivisions of State or local governments, or a multi-State or multi-jurisdictional group of the aforementioned entities.

(2) **ELIGIBLE PROJECT.**—The term “eligible project” means a surface transportation project or a program of integrated surface transportation projects closely related in the function they perform that—

(A) is a capital project or projects—

(i) eligible for Federal financial assistance under title 23, United States Code, or under chapter 53 of title 49, United States Code; or

(ii) for surface transportation infrastructure to facilitate intermodal interchange, transfer, and access into and out of intermodal facilities, including ports; and

(B) has eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

(i) $500,000,000;
(ii) for a project located in a single State, 60 percent of the amount of Federal-aid highway funds apportioned for the most recently completed fiscal year to the State; or

(iii) for a project located in more than 1 State, 75 percent of the amount of Federal-aid highway funds apportioned for the most recently completed fiscal year to the State in which the project is located that has the largest apportionment.

(3) ELIGIBLE PROJECT COSTS.—The term “eligible project costs” means the costs of—

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

(B) construction, reconstruction, rehabilitation, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, acquisition of equipment directly related to improving system performance, and operational improvements; and
(C) all financing costs, including subsidy costs under the Transportation Infrastructure Finance and Innovation Act program.

(d) SOLICITATIONS AND APPLICATIONS.—

(1) GRANT SOLICITATIONS.—The Secretary shall establish criteria for project evaluation and conduct a transparent and competitive national solicitation process to select projects for funding to carry out the purposes of this section.

(2) APPLICATIONS.—

(A) IN GENERAL.—An eligible applicant seeking a grant under this section for an eligible project shall submit an application to the Secretary in such form and in accordance with such requirements as the Secretary shall establish.

(B) CONTENTS.—An application under this subsection shall, at a minimum, include data on current system performance and estimated system improvements that will result from completion of the eligible project, including projections for 2, 7, and 15 years after completion.

(C) RESUBMISSION OF APPLICATIONS.—An eligible applicant whose project is not selected
by the Secretary may resubmit an application in any subsequent solicitation.

(e) CRITERIA FOR PROJECT EVALUATION AND SELECTION.—

(1) IN GENERAL.—The Secretary may select a project only if the Secretary determines that the project—

(A) will significantly improve the performance of the national surface transportation network, nationally or regionally;

(B) is based on the results of preliminary engineering;

(C) cannot be readily and efficiently completed without Federal support from this program;

(D) is justified based on the ability of the project—

(i) to generate national economic benefits that reasonably exceed its costs, including increased access to jobs, labor, and other critical economic inputs;

(ii) to reduce long-term congestion, including impacts in the State, region, and Nation, and increase speed, reliability, and
accessibility of the movement of people or
freight; and

(iii) to improve transportation safety,
including reducing transportation acci-
dents, injuries, and serious injuries and fa-
talities; and

(E) is supported by an acceptable degree
of non-Federal financial commitments, includ-
ing evidence of stable and dependable financing
sources to construct, maintain, and operate the
infrastructure facility.

(2) ADDITIONAL CONSIDERATIONS.—In evalu-
ating a project under this section, in addition to the
criteria in paragraph (1), the Secretary shall con-
sider the extent to which the project—

(A) leverages Federal investment by en-
couraging non-Federal contributions to the
project, including contributions from public-priv-
ate partnerships;

(B) is able to begin construction within 18
months of being selected;

(C) incorporates innovative project delivery
and financing where practical;

(D) stimulates collaboration between
States and among State and local governments;
(E) helps maintain or protect the environment;

(F) improves roadways vital to national energy security;

(G) uses innovative technologies, including intelligent transportation systems, that enhance the efficiency of the project; and

(H) contributes to an equitable geographic distribution of funds under this section and an appropriate balance in addressing the needs of urban and rural communities.

(f) GRANT REQUIREMENTS.—

(1) IN GENERAL.—A grant for a project under this section shall be subject to the following requirements:

(A) A qualifying highway project eligible for funding under title 23, United States Code, or public transportation project eligible under chapter 53 of title 49, United States Code, shall comply with all applicable requirements of such title or chapter except that, if the project contains elements or activities that are not eligible for funding under such title or chapter but are eligible for funding under this section, the ele-
ments or activities shall comply with the requirements described in subparagraph (B).

(B) A qualifying surface transportation project not eligible under title 23, United States Code, or chapter 53 of title 49, United States Code, shall comply with the requirements of subchapter IV of chapter 31 of title 40, United States Code, \(\text{section 10a-d of title 41, United States Code}\), and such other terms, conditions, and requirements as the Secretary determines are necessary and appropriate for the type of project.

(2) Determination of Applicable Modal Requirements.—In the event that a project has cross-modal components, the Secretary shall have the discretion to designate the requirements that shall apply to the project based on predominant components.

(3) Other Terms and Conditions.—The Secretary shall require that all grants under this section be subject to all terms, conditions, and requirements that the Secretary decides are necessary or appropriate for purposes of this section, including requirements for the disposition of net increases in value of
real property resulting from the project assisted under this section.

(g) Federal Share of Project Cost.—The Federal share of funds under this section for the project shall be up to 50 percent of the project cost. Other eligible Federal transportation funds may be used by the project sponsor up to an additional 30 percent of the project costs.

If a project is to construct or improve a privately owned facility or would primarily benefit a private entity, the Federal share shall be the lesser of 50 percent of the total project cost or the quantified public benefit of the project. The Secretary may allow costs incurred prior to project approval to be used as a credit toward the non-Federal share of the cost of the project. Such costs must be adequately documented, necessary, reasonable and allocable to the current phase of the project and such costs may not be included as a cost or used to meet cost sharing or matching requirements of any other federally financed project.

(g) Federal Share of Project Cost.—

(1) In general.—If a project funded under this section is to construct or improve a privately owned facility or would primarily benefit a private entity, the Federal share shall be the lesser of 50 percent of the total project cost or the quantified public benefit
of the project. For all other projects funded under this section—

(A) the Federal share of funds under this section shall be up to 50 percent of the project cost; and

(B) the project sponsor may use other eligible Federal transportation funds to cover up to an additional 30 percent of the project costs.

(2) PRE-APPROVAL COSTS.—The Secretary may allow costs incurred prior to project approval to be used as a credit toward the non-Federal share of the cost of the project. Such costs must be adequately documented, necessary, reasonable, and allocable to the current phase of the project and such costs may not be included as a cost or used to meet cost-sharing or matching requirements of any other federally-financed project.

(h) REPORT TO THE SECRETARY.—For each project funded under this section, the project sponsor shall reassess system performance and report to the Secretary 2, 7, and 15 years after completion of the project to assess if the project outcomes have met pre-construction projections.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section,
to remain available until expended, $1,000,000,000 for fiscal year 2013.

(j) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded under this section shall be treated as projects on a Federal-aid highway system under chapter 1 of title 23, United States Code.

Subtitle B—Performance Management

SEC. 1201. METROPOLITAN TRANSPORTATION PLANNING.

Section 134 of title 23, United States Code, is amended to read as follows:

“§ 134. Metropolitan transportation planning

“(a) POLICY.—It is in the national interest—

“(1) to encourage and promote the safe, cost-effective, and efficient management, operation, and development of surface transportation systems that will serve efficiently the mobility needs of individuals and freight, reduce transportation-related fatalities and serious injuries, and foster economic growth and development within and between States and urbanized areas, while fitting the needs and complexity of individual communities, maximizing value for taxpayers, leveraging cooperative investments, and minimizing transportation-related fuel consumption and air pollution through the metropolitan and
statewide transportation planning processes identified in this title;

“(2) to encourage the continued improvement, evolution, and coordination of the metropolitan and statewide transportation planning processes by and among metropolitan planning organizations, State departments of transportation, regional planning organizations, interstate partnerships, and public transit and intercity service operators as guided by the planning factors identified in subsection (h) of this section and section 135(d);

“(3) to encourage and promote transportation needs and decisions that are integrated with other planning needs and priorities; and

“(4) to maximize the effectiveness of transportation investments.

“(b) DEFINITIONS.—In this section and section 135, the following definitions apply:

“(1) EXISTING MPO.—The term ‘existing MPO’ means a metropolitan planning organization that was designated as a metropolitan planning organization on the day before the date of enactment of the MAP–21.

“(2) LOCAL OFFICIAL.—The term ‘local official’ means any elected or appointed official of general
purpose local government with responsibility for transportation in a designated area.

“(3) MAINTENANCE AREA.—The term ‘maintenance area’ means an area that was designated as an air quality nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an air quality attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).

“(4) METROPOLITAN PLANNING AREA.—The term ‘metropolitan planning area’ means a geographical area determined by agreement between the metropolitan planning organization for the area and the applicable Governor under subsection (c).

“(5) METROPOLITAN PLANNING ORGANIZATION.—The term ‘metropolitan planning organization’ means the policy board of an organization established pursuant to subsection (c).

“(6) METROPOLITAN TRANSPORTATION PLAN.—The term ‘metropolitan transportation plan’ means a plan developed by a metropolitan planning organization under subsection (i).

“(7) NONATTAINMENT AREA.—The term ‘nonattainment area’ has the meaning given the term in section 171 of the Clean Air Act (42 U.S.C. 7501).
“(8) NONMETROPOLITAN AREA.—

“(A) IN GENERAL.—The term ‘nonmetropolitan area’ means a geographical area outside the boundaries of a designated metropolitan planning area.

“(B) INCLUSIONS.—The term ‘nonmetropolitan area’ includes small urbanized and non-urbanized areas.

“(9) NONMETROPOLITAN PLANNING ORGANIZATION.—

“(A) IN GENERAL.—The term ‘nonmetropolitan planning organization’ means an organization designated by a State to enhance the planning, coordination, and implementation of statewide transportation plans and programs in a nonmetropolitan area, with an emphasis on addressing the needs of nonmetropolitan areas of the State.

“(B) INCLUSION.—The term ‘nonmetropolitan planning organization’ includes a rural planning organization.

“(9) NONMETROPOLITAN PLANNING ORGANIZATION.—The term ‘nonmetropolitan planning organization’ means an organization that—
“(A) was designated as a metropolitan planning organization as of the day before the date of enactment of the MAP-21; and

“(B) is not designated as a tier I or tier II metropolitan planning organization.

“(10) Regionally significant.—The term ‘regionally significant’, with respect to a transportation project, program, service, or strategy, means a project, program, service, or strategy that—

“(A) serves regional transportation needs (such as access to and from the area outside of the region, major activity centers in the region, and major planned developments); and

“(B) would normally be included in the modeling of a transportation network of a metropolitan area.

“(11) Rural Planning Organization.—The term ‘rural planning organization’ means an organization that—

“(A) was designated as a metropolitan planning organization as of the day before the date of enactment of the MAP-21; and

“(B) is not designated as a tier I or tier II metropolitan planning organization.
“(12) **STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.**—The term ‘statewide transportation improvement program’ means a statewide transportation improvement program developed by a State under section 135(g).

“(13) **STATEWIDE TRANSPORTATION PLAN.**—The term ‘statewide transportation plan’ means a plan developed by a State under section 135(f).

“(14) **TRANSPORTATION IMPROVEMENT PROGRAM.**—The term ‘transportation improvement program’ means a program developed by a metropolitan planning organization under subsection (j).

“(15) **URBANIZED AREA.**—The term ‘urbanized area’ means a geographical area with a population of 50,000 or more individuals, as determined by the Bureau of the Census.

“(c) **DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.**—

“(1) **IN GENERAL.**—To carry out the metropolitan transportation planning process under this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 200,000 individuals—
“(A) by agreement between the applicable Governor and local officials that, in the aggregate, represent at least 75 percent of the affected population (including the largest incorporated city (based on population), as determined by the Bureau of the Census); or

“(B) in accordance with procedures established by applicable State or local law.

“(2) SMALL URBANIZED AREAS.—To carry out the metropolitan transportation planning process under this section, a metropolitan planning organization may be designated for any urbanized area with a population of more than 50,000, but less than 200,000, individuals—

“(A) by agreement between the applicable Governor and local officials that, in the aggregate, represent at least 75 percent of the affected population (including the largest incorporated city (based on population), as determined by the Bureau of the Census); and

“(B) with the consent of the Secretary, based on a finding that the resulting metropolitan planning organization has met the minimum requirements under subsection (c)(4)(B).
“(3) STRUCTURE.—Effective beginning on the date of designation or redesignation under this subsection, a metropolitan planning organization shall consist of—

“(A) elected local officials in the relevant metropolitan area;

“(B) officials of public agencies that administer or operate major modes of transportation in the relevant metropolitan area; and

“(C) appropriate State officials.

“(4) EFFECT OF SUBSECTION.—Nothing in this subsection interferes with any authority under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities—

“(A) to develop the metropolitan transportation plans and transportation improvement programs for adoption by a metropolitan planning organization; or

“(B) to develop capital plans, coordinate transit services and projects, or carry out other activities pursuant to State law.

“(5) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law—
“(A) for an urbanized area with a population of 200,000 or more individuals shall remain in effect—

“(i) for the period during which the structure of the existing MPO complies with the requirements of paragraph (1); or

“(ii) until the date on which the existing MPO is redesignated under paragraph (7); and

“(B) for an urbanized area with a population of less than 200,000 individuals, shall be terminated on the date that is 3 years after the date on which the Secretary promulgates a regulation pursuant to subsection (e)(4)(B)(i), unless reaffirmed by the existing MPO and the applicable Governor and approved by the Secretary, on the basis of meeting the minimum requirements established by the regulation.

“(6) EXTENSION.—

“(A) IN GENERAL.—If the applicable Governor, acting on behalf of a metropolitan planning organization for an urbanized area with a population of less than 200,000 that would otherwise be terminated under paragraph (5)(B), requests a probationary continuation before the
termination of the metropolitan planning orga-
nization, the Secretary shall—

“(i) delay the termination of the met-
ropolitan planning organization under
paragraph (5)(B) for a period of 1 year;
and

“(ii) provide additional technical as-
sistance to all metropolitan planning orga-
nizations provided an extension under this
paragraph to assist the metropolitan plan-
ing organization in meeting the minimum
requirements under subsection (e)(4)(B)(i).

“(B) DESIGNATION AS TIER II MPO.—If
the Secretary determines the metropolitan plan-
ing organization has met the minimum re-
quirements under subsection (e)(4)(B)(i) before
the final termination date, the metropolitan
planning organization shall be designated as a
tier II MPO.

“(7) REDESIGNATION.—The designation of a
metropolitan planning organization under this sub-
section shall remain in effect until the date on which
the metropolitan planning organization is redesig-
nated, as appropriate, in accordance with the re-
requirements of this subsection pursuant to an agreement between—

“(A) the applicable Governor; and

“(B) affected local officials who, in the aggregate, represent at least 75 percent of the existing metropolitan planning area population (including the largest incorporated city (based on population), as determined by the Bureau of the Census).

“(8) DESIGNATION OF MULTIPLE MPOS.—

“(A) IN GENERAL.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the applicable Governor and an existing MPO determine that the size and complexity of the existing metropolitan planning area make the designation of more than 1 metropolitan planning organization for the metropolitan planning area appropriate.

“(B) SERVICE JURISDICTIONS.—If more than 1 metropolitan planning organization is designated for an existing metropolitan planning area under subparagraph (A), the existing metropolitan planning area shall be split into multiple metropolitan planning areas, each of
which shall be served by the existing MPO or a new metropolitan planning organization.

“(C) Tier designation.—The tier designation of each metropolitan planning organization subject to a designation under this paragraph shall be determined based on the size of each respective metropolitan planning area, in accordance with subsection (e)(4).

“(d) Metropolitan Planning Area Boundaries.—

“(1) In general.—For purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the applicable metropolitan planning organization and the Governor of the State in which the metropolitan planning area is located.

“(2) Included area.—Each metropolitan planning area—

“(A) shall encompass at least the relevant existing urbanized area and any contiguous area expected to become urbanized within a 20-year forecast period under the applicable metropolitan transportation plan; and
“(B) may encompass the entire relevant metropolitan statistical area, as defined by the Office of Management and Budget.

“(3) IDENTIFICATION OF NEW URBANIZED AREAS.—The designation by the Bureau of the Census of a new urbanized area within the boundaries of an existing metropolitan planning area shall not require the redesignation of the relevant existing MPO.

“(4) NONATTAINMENT AND MAINTENANCE AREAS.—

“(A) EXISTING METROPOLITAN PLANNING AREAS.—

“(i) IN GENERAL.—Except as provided in clause (ii), notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area or maintenance area as of the date of enactment of the MAP–21, the boundaries of the existing metropolitan planning area as of that date of enactment shall remain in force and effect.

“(ii) EXCEPTION.—Notwithstanding clause (i), the boundaries of an existing metropolitan planning area described in
that clause may be adjusted by agreement of the applicable Governor and the affected metropolitan planning organizations in accordance with subsection (c)(5).

“(B) NEW METROPOLITAN PLANNING AREAS.—In the case of an urbanized area designated as a nonattainment area or maintenance area after the date of enactment of the MAP–21, the boundaries of the applicable metropolitan planning area—

“(i) shall be established in accordance with subsection (c)(1);

“(ii) shall encompass the areas described in paragraph (2)(A);

“(iii) may encompass the areas described in paragraph (2)(B); and

“(iv) may address any appropriate nonattainment area or maintenance area.

“(e) REQUIREMENTS.—

“(1) DEVELOPMENT OF PLANS AND TIPS.—To accomplish the policy objectives described in subsection (a), each metropolitan planning organization, in cooperation with the applicable State and public transportation operators, shall develop metropolitan transportation plans and transportation improve-
ment programs for metropolitan planning areas of the State through a performance-driven, outcome-based approach to metropolitan transportation planning consistent with subsection (h)(2).

“(2) CONTENTS.—The metropolitan transportation plans and transportation improvement programs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation) that will function as—

“(A) an intermodal transportation system for the metropolitan planning area; and

“(B) an integral part of an intermodal transportation system for the applicable State and the United States.

“(3) PROCESS OF DEVELOPMENT.—The process for developing metropolitan transportation plans and transportation improvement programs shall—

“(A) provide for consideration of all modes of transportation; and

“(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on
the complexity of the transportation needs to be addressed.

“(4) TIERING.—

“(A) TIER I MPOS.—

“(i) IN GENERAL.—A metropolitan planning organization shall be designated as a tier I MPO if—

“(I) as certified by the Governor of each applicable State, the metropolitan planning organization operates within, and primarily serves, a metropolitan planning area with a population of 1,000,000 or more individuals, as calculated according to the most recent decennial census; and

“(II) the Secretary determines the metropolitan planning organization—

“(aa) meets the minimum technical requirements under clause (iv); and

“(bb) not later than 2 years after the date of enactment of the MAP–21, will fully imple-
ment the processes described in subsections (h) through (j).

“(ii) Absence of designation.—In the absence of designation as a tier I MPO under clause (i), a metropolitan planning organization shall operate as a tier II MPO until the date on which the Secretary determines the metropolitan planning organization can meet the minimum technical requirements under clause (iv).

“(iii) Redesignation as tier I.—A metropolitan planning organization operating within a metropolitan planning area with a population of less than 1,000,000, but more than 200,000, individuals and primarily within urbanized areas with populations of more than 200,000 individuals, as calculated according to the most recent decennial census, that is designated as a tier II MPO under subparagraph (B) may request, with the support of the applicable Governor, a redesignation as a tier I MPO on a determination by the Secretary that the metropolitan planning organization has
met the minimum technical requirements under clause (iv).

“(iv) MINIMUM TECHNICAL REQUIREMENTS.—Not later than 1 year after the date of enactment of the MAP–21, the Secretary shall publish a regulation that establishes the minimum technical requirements necessary for a metropolitan planning organization to be designated as a tier I MPO, including, at a minimum, modeling, data, staffing, and other technical requirements.

“(B) TIER II MPOS.—

“(i) IN GENERAL.—Not later than 1 year after the date of enactment of the MAP–21, the Secretary shall publish a regulation that establishes minimum requirements necessary for a metropolitan planning organization to be designated as a tier II MPO.

“(ii) REQUIREMENTS.—The minimum requirements established under clause (i) shall—

“(I) ensure that each metropolitan planning organization has the ca-
pabilities necessary to develop the
metropolitan transportation plan and
transportation improvement program
under this section; and

“(II) include—

“(aa) only the staff re-
resources necessary to operate the
metropolitan planning organiza-
tion; and

“(bb) a requirement that the
metropolitan planning organiza-
tion has the technical capacity to
conduct the modeling necessary
to fulfill the requirements of this
section, except that in cases in
which a metropolitan planning
organization has a formal agree-
ment with a State to conduct the
modeling on behalf of the metro-
politan planning organization, the
metropolitan planning organiza-
tion shall be exempt from the
technical capacity requirement.

“(iii) Inclusion.—A metropolitan
planning organization operating primarily
within an urbanized area with a population
of more than 200,000 individuals, as cal-
culated according to the most recent de-
cennial census, and that does not qualify
as a tier I MPO under subparagraph
(A)(i), shall—

“(I) be designated as a tier II
MPO; and

“(II) follow the processes under
subsection (k).

“(C) SMALL URBANIZED AREAS.—

“(i) IN GENERAL.—Not later than 2
years after the date of publication of the
regulation under subparagraph (B)(i), any
existing MPO operating primarily within
an urbanized area with a population of
fewer than 200,000, but more than
50,000, individuals (as determined before
the date of enactment of the MAP–21),
with the support of the applicable Gov-
ernor, may request designation as a tier II
MPO on a determination by the Secretary
that the metropolitan planning organiza-
tion has met the minimum requirements
under subparagraph (B)(i).
“(ii) ABSENCE OF DESIGNATION.—A metropolitan planning organization that is the subject of a negative determination of the Secretary under clause (i) shall submit to the State in which the metropolitan planning organization is located, or to a planning organization designated by the State, by not later than 180 days after the date on which a notice of the negative determination is received, a 6-month plan that includes a description of a method—

“(I) to transfer the responsibilities of the metropolitan planning organization to the State; and

“(II) to dissolve the metropolitan planning organization.

“(iii) ACTION ON DISSOLUTION.—On submission of a plan under clause (ii), the metropolitan planning area served by the applicable metropolitan planning organization shall—

“(I) continue to receive metropolitan transportation planning funds until the earlier of—
“(aa) the date of dissolution of the metropolitan planning organization; and

“(bb) the date that is 4 years after the date of enactment of the MAP–21; and

“(II) be treated by the State as a nonmetropolitan area for purposes of this title.

“(D) CONSOLIDATION.—

“(i) IN GENERAL.—Metropolitan planning organizations operating within contiguous or adjacent urbanized areas may elect to consolidate in order to meet the population thresholds required to achieve designation as a tier I or tier II MPO under this paragraph.

“(ii) EFFECT OF SUBSECTION.—Nothing in this subsection requires or prevents consolidation among multiple metropolitan planning organizations located within a single urbanized area.

“(f) COORDINATION IN MULTISTATE AREAS.—

“(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion
of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

“(2) COORDINATION ALONG DESIGNATED TRANSPORTATION CORRIDORS.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire designated transportation corridor.

“(3) COORDINATION WITH INTERSTATE COMPACTS.—The Secretary shall encourage metropolitan planning organizations to take into consideration, during the development of metropolitan transportation plans and transportation improvement programs, any relevant transportation studies concerning planning for regional transportation (including high-speed and intercity rail corridor studies, commuter rail corridor studies, intermodal terminals, and interstate highways) in support of freight, intercity, or multistate area projects and services that have been developed pursuant to interstate compacts or agreements, or by organizations established under section 135.
“(g) Engagement in Metropolitan Transportation Plan and TIP Development.—

“(1) Nonattainment and Maintenance Areas.—If more than 1 metropolitan planning organization has authority within a metropolitan area, nonattainment area, or maintenance area, each metropolitan planning organization shall consult with each other metropolitan planning organization designated for the metropolitan area, nonattainment area, or maintenance area and the State in the development of metropolitan transportation plans and transportation improvement programs under this section.

“(2) Transportation Improvements Located in Multiple Metropolitan Planning Areas.—If a transportation improvement project funded under this title or chapter 53 of title 49 is located within the boundaries of more than 1 metropolitan planning area, the affected metropolitan planning organizations shall coordinate metropolitan transportation plans and transportation improvement programs regarding the project.

“(3) Coordination of Adjacent Planning Organizations.—
“(A) IN GENERAL.—A metropolitan planning organization that is adjacent or located in reasonably close proximity to another metropolitan planning organization shall coordinate with that metropolitan planning organization with respect to planning processes, including preparation of metropolitan transportation plans and transportation improvement programs, to the maximum extent practicable.

“(B) NONMETROPOLITAN PLANNING ORGANIZATIONS.—A metropolitan planning organization that is adjacent or located in reasonably close proximity to a nonmetropolitan planning organization shall consult with that nonmetropolitan planning organization with respect to planning processes, to the maximum extent practicable.

“(4) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

“(A) IN GENERAL.—The Secretary shall encourage each metropolitan planning organization to cooperate with Federal, tribal, State, and local officers and entities responsible for other types of planning activities that are affected by transportation in the relevant area
(including planned growth, economic development, infrastructure services, housing, other public services, environmental protection, airport operations, high-speed and intercity passenger rail, freight rail, port access, and freight movements), to the maximum extent practicable, to ensure that the metropolitan transportation planning process, metropolitan transportation plans, and transportation improvement programs are developed in cooperation with other related planning activities in the area.

“(B) INCLUSION.—Cooperation under subparagraph (A) shall include the design and delivery of transportation services within the metropolitan area that are provided by—

“(i) recipients of assistance under sections 202, 203, and 204;

“(ii) recipients of assistance under chapter 53 of title 49;

“(iii) government agencies and non-profit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of
Transportation to provide nonemergency transportation services; and

“(iv) sponsors of regionally significant programs, projects, and services that are related to transportation and receive assistance from any public or private source.

“(5) COORDINATION OF OTHER FEDERALLY REQUIRED PLANNING PROGRAMS.—The Secretary shall encourage each metropolitan planning organization to coordinate, to the maximum extent practicable, the development of metropolitan transportation plans and transportation improvement programs with other relevant federally required planning programs.

“(h) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—The metropolitan transportation planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—

“(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

“(B) increase the safety of the transportation system for motorized and nonmotorized users;
“(C) increase the security of the transportation system for motorized and nonmotorized users;
“(D) increase the accessibility and mobility of individuals and freight;
“(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;
“(F) enhance the integration and connectivity of the transportation system, across and between modes, for individuals and freight;
“(G) increase efficient system management and operation; and
“(H) emphasize the preservation of the existing transportation system.

“(2) PERFORMANCE-BASED APPROACH.—

“(A) IN GENERAL.—The metropolitan transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decision-
making to support the national goals described in section 150(b).

“(B) PERFORMANCE TARGETS.—

“(i) IN GENERAL.—Each metropolitan planning organization shall establish performance targets that address the performance measures described in sections 119(f), 148(h), 149(k), where applicable, and 167(i) to use in tracking attainment of critical outcomes for the region of the metropolitan planning organization.

“(ii) COORDINATION.—Selection of performance targets by a metropolitan planning organization shall be coordinated with the relevant State to ensure consistency, to the maximum extent practicable.

“(C) TIMING.—Each metropolitan planning organization shall establish the performance targets under subparagraph (B) not later than 90 days after the date of establishment by the relevant State of performance targets pursuant to sections 119(f), 148(h), 149(k), where applicable, and 167(i).

“(D) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A metropolitan planning
organization shall integrate in the metropolitan transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in this paragraph into other described in other State plans and processes required as part of a performance-based program, including plans such as—

“(i) the State National Highway System asset management plan;

“(ii) the State strategic highway safety plan;

“(iii) the congestion mitigation and air quality performance plan, where applicable;

“(iv) the national freight strategic plan; and

“(v) the statewide transportation plan.

“(E) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be used, at a minimum, by the relevant metropolitan planning organization as the basis for development of policies, programs, and investment priorities reflected in the metropolitan
transportation plan and transportation improvement program.

“(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration 1 or more of the factors specified in paragraphs (1) and (2) shall not be subject to review by any court under this title, chapter 53 of title 49, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a metropolitan transportation plan, a transportation improvement program, a project or strategy, or the certification of a planning process.

“(4) PARTICIPATION BY INTERESTED PARTIES.—

“(A) IN GENERAL.—Each metropolitan planning organization shall provide to affected individuals, public agencies, and other interested parties notice and a reasonable opportunity to comment on the metropolitan transportation plan and transportation improvement program and any relevant scenarios.

“(B) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

“(i) develop the metropolitan transportation plan and transportation improve-
ment program in consultation with interested parties, as appropriate, including by
the formation of advisory groups representative of the community and interested par-
ties that participate in the development of
the metropolitan transportation plan and
transportation improvement program;
“(ii) hold any public meetings at
times and locations that are, as applicable—
“(I) convenient; and
“(II) in compliance with the
Americans with Disabilities Act of
1990 (42 U.S.C. 12101 et seq.);
“(iii) employ visualization techniques
to describe metropolitan transportation
plans and transportation improvement pro-
grams; and
“(iv) make public information avail-
able in appropriate electronically accessible
formats and means, such as the Internet,
to afford reasonable opportunity for con-
sideration of public information under sub-
paragraph (A).
“(i) Development of Metropolitan Transportation Plan.—

“(1) Development.—

“(A) In general.—Except as provided in subparagraph (B), not later than 5 years after the date of enactment of the MAP–21, and not less frequently than once every 5 years thereafter, each metropolitan planning organization shall prepare and update, respectively, a metropolitan transportation plan for the relevant metropolitan planning area in accordance with this section.

“(B) Exceptions.—A metropolitan planning organization shall prepare or update, as appropriate, the metropolitan transportation plan not less frequently than once every 4 years if the metropolitan planning organization is operating within—

“(i) a nonattainment area; or

“(ii) a maintenance area.

“(2) Other Requirements.—A metropolitan transportation plan under this section shall—

“(A) be in a form that the Secretary determines to be appropriate;
“(B) have a term of not less than 20 years; and

“(C) contain, at a minimum—

“(i) an identification of the existing transportation infrastructure, including highways, local streets and roads, bicycle and pedestrian facilities, transit facilities and services, commuter rail facilities and services, high-speed and intercity passenger rail facilities and services, freight facilities (including freight railroad and port facilities), multimodal and intermodal facilities, and intermodal connectors that, evaluated in the aggregate, function as an integrated metropolitan transportation system;

“(ii) a description of the performance measures and performance targets used in assessing the existing and future performance of the transportation system in accordance with subsection (h)(2);

“(iii) a description of the current and projected future usage of the transportation system, including a projection based on a preferred scenario, and further in-
cluding, to the extent practicable, an identification of existing or planned transportation rights-of-way, corridors, facilities, and related real properties;

“(iv) a system performance report evaluating the existing and future condition and performance of the transportation system with respect to the performance targets described in subsection (h)(2) and updates in subsequent system performance reports, including—

“(I) progress achieved by the metropolitan planning organization in meeting the performance targets in comparison with system performance recorded in previous reports;

“(II) an accounting of the performance of the metropolitan planning organization on outlay of obligated project funds and delivery of projects that have reached substantial completion in relation to—

“(aa) the projects included in the transportation improvement program; and
“(bb) the projects that have been removed from the previous transportation improvement program; and

“(III) when appropriate, an analysis of how the preferred scenario has improved the conditions and performance of the transportation system and how changes in local policies, investments, and growth have impacted the costs necessary to achieve the identified performance targets;

“(v) recommended strategies and investments for improving system performance over the planning horizon, including transportation systems management and operations strategies, maintenance strategies, demand management strategies, asset management strategies, capacity and enhancement investments, State and local economic development and land use improvements, intelligent transportation systems deployment, and technology adoption strategies, as determined by the projected
support of the performance targets described in subsection (h)(2);

“(vi) recommended strategies and investments to improve and integrate disability-related access to transportation infrastructure, including strategies and investments based on a preferred scenario, when appropriate;

“(vii) investment priorities for using projected available and proposed revenues over the short- and long-term stages of the planning horizon, in accordance with the financial plan required under paragraph (4);

“(viii) a description of interstate compacts entered into in order to promote coordinated transportation planning in multistate areas, if applicable;

“(ix) an optional illustrative list of projects containing investments that—

“(I) are not included in the metropolitan transportation plan; but

“(II) would be so included if resources in addition to the resources
identified in the financial plan under paragraph (4) were available;

“(x) a discussion (developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies) of types of potential environmental and stormwater mitigation activities and potential areas to carry out those activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the metropolitan transportation plan; and

“(xi) recommended strategies and investments, including those developed by the State as part of interstate compacts, agreements, or organizations, that support intercity transportation.

“(3) SCENARIO DEVELOPMENT.—When preparing the metropolitan transportation plan, the metropolitan planning organization may, while fitting the needs and complexity of their community, develop multiple scenarios for consideration as a part of the development of the metropolitan transportation plan, in accordance with the following:
(A) The scenarios—

(i) shall include potential regional investment strategies for the planning horizon;

(ii) shall include assumed distribution of population and employment;

(iii) may include a scenario that, to the maximum extent practicable, maintains baseline conditions for the performance measures identified in subsection (h)(2);

(iv) may include a scenario that improves the baseline conditions for as many of the performance measures under subsection (h)(2) as possible;

(v) may include a revenue constrained scenario based on total revenues reasonable expected to be available over the 20-year planning period and assumed population and employment; and

(vi) may include estimated costs and potential revenues available to support each scenario.

(B) In addition to the performance measures identified in subsection (h)(2), scenarios developed under this paragraph may be evalu-
ated using locally developed metrics for the following categories:

“(i) Congestion and mobility, including transportation use by mode.

“(ii) Freight movement.

“(iii) Safety.

“(iv) Efficiency and costs to taxpayers.

“(3) SCENARIO DEVELOPMENT.—

“(A) IN GENERAL.—When preparing the metropolitan transportation plan, the metropolitan planning organization may, while fitting the needs and complexity of its community, develop multiple scenarios for consideration as a part of the development of the metropolitan transportation plan, in accordance with subparagraph (B).

“(B) COMPONENTS OF SCENARIOS.—The scenarios—

“(i) shall include potential regional investment strategies for the planning horizon;

“(ii) shall include an assumed distribution of population and employment;

“(iii) may include a scenario that, to the maximum extent practicable, maintains
baseline conditions for the performance measures identified in subsection (h)(2);

“(iv) may include a scenario that improves the baseline conditions for as many of the performance measures under subsection (h)(2) as possible;

“(v) shall be revenue constrained based on the total revenues expected to be available over the forecast period of the plan; and

“(vi) may include estimated costs and potential revenues available to support each scenario.

“(C) METRICS.—In addition to the performance measures identified in subsection (h)(2), scenarios developed under this paragraph may be evaluated using locally-developed metrics for the following categories:

“(i) Congestion and mobility, including transportation use by mode.

“(ii) Freight movement.

“(iii) Safety.

“(iv) Efficiency and costs to taxpayers.

“(4) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(C)(vii) shall—
“(A) be prepared by each metropolitan planning organization to support the metropolitan transportation plan; and

“(B) contain a description of each of the following:

“(i) Projected resource requirements for implementing projects, strategies, and services recommended in the metropolitan transportation plan, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs.

“(ii) The projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment).

“(iii) Estimates of future funds, to be developed cooperatively by the metropolitan planning organization, any public transportation agency, and the State, that are rea-
sonably expected to be available to support the investment priorities recommended in the metropolitan transportation plan.

“(iv) Each applicable project only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

“(5) Coordination with Clean Air Act Agencies.—The metropolitan planning organization for any metropolitan area that is a nonattainment area or maintenance area shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act (42 U.S.C. 7401 et seq.).

“(6) Publication.—On approval by the relevant metropolitan planning organization, a metropolitan transportation plan involving Federal participation shall be, at such times and in such manner as the Secretary shall require—

“(A) published or otherwise made readily available by the metropolitan planning organization for public review, including (to the maximum extent practicable) in electronically acces-
sible formats and means, such as the Internet;

and

“(B) submitted for informational purposes
to the applicable Governor.

“(7) CONSULTATION.—

“(A) IN GENERAL.—In each metropolitan
area, the metropolitan planning organization
shall consult, as appropriate, with Federal, trib-
al, State, and local agencies responsible for land
use management, natural resources, environ-
mental protection, conservation, and historic
preservation concerning the development of a
metropolitan transportation plan.

“(B) ISSUES.—The consultation under
subparagraph (A) shall involve, as available,
consideration of—

“(i) metropolitan transportation plans
with Federal, tribal, State, and local con-
servation plans or maps; and

“(ii) inventories of natural or historic
resources.

“(8) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (4), a
State or metropolitan planning organization shall
not be required to select any project from the illus-
trative list of additional projects included in the met-
ropolitan transportation plan under paragraph
(2)(C)(ix).

“(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—In cooperation with
the applicable State and any affected public
transportation operator, the metropolitan plan-
ning organization designated for a metropolitan
area shall develop a transportation improvement
program for the metropolitan planning area
that—

“(i) contains projects consistent with
the current metropolitan transportation
plan;

“(ii) reflects the investment priorities
established in the current metropolitan
transportation plan; and

“(iii) once implemented, will make sig-
nificant progress toward achieving the tar-
gets established under subsection (h)(2).

“(B) OPPORTUNITY FOR PARTICIPA-
TION.—In developing the transportation im-
provement program, the metropolitan planning
organization, in cooperation with the State and
any affected public transportation operator, shall provide an opportunity for participation by interested parties, in accordance with subsection (h)(4).

“(C) UPDATING AND APPROVAL.—The transportation improvement program shall be—

“(i) updated not less frequently than once every 4 years, on a cycle compatible with the development of the relevant statewide transportation improvement program under section 135; and

“(ii) approved by the applicable Governor.

“(2) CONTENTS.—

“(A) PRIORITY LIST.—The transportation improvement program shall include a priority list of proposed federally supported projects and strategies to be carried out during the 4-year period beginning on the date of adoption of the transportation improvement program, and each 4-year period thereafter, using existing and reasonably available revenues in accordance with the financial plan under paragraph (3).

“(B) DESCRIPTIONS.—Each project described in the transportation improvement pro-
gram shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project and the effect that the project or project phase will have in addressing the targets described in subsection (h)(2).

“(C) PERFORMANCE TARGET ACHIEVEMENT.—The transportation improvement program shall include, to the maximum extent practicable, a description of the anticipated effect of the transportation improvement program on attainment of the performance targets established in the metropolitan transportation plan, linking investment priorities to those performance targets.

“(D) ILLUSTRATIVE LIST OF PROJECTS.—In developing a transportation improvement program, an optional illustrative list of projects may be prepared containing additional investment priorities that—

“(i) are not included in the transportation improvement program; but

“(ii) would be so included if resources in addition to the resources identified in
the financial plan under paragraph (3) were available.

“(3) FINANCIAL PLAN.—A financial plan referred to in paragraph (2)(D)(ii) shall—

“(A) be prepared by each metropolitan planning organization to support the transportation improvement program; and

“(B) contain a description of each of the following:

“(i) Projected resource requirements for implementing projects, strategies, and services recommended in the transportation improvement program, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs.

“(ii) The projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment).
“(iii) Estimates of future funds, to be
developed cooperatively by the metropolitan
planning organization, any public transpor-
tation agency, and the State, that are rea-
sonably expected to be available to support
the investment priorities recommended in
the transportation improvement program.

“(iv) Each applicable project, only if
full funding can reasonably be anticipated
to be available for the project within the
time period contemplated for completion of
the project.

“(4) INCLUDED PROJECTS.—

“(A) PROJECTS UNDER THIS TITLE AND
CHAPTER 53 OF TITLE 49.—A transportation
improvement program developed under this sub-
section for a metropolitan area shall include a
description of the projects within the area that
are proposed for funding under chapter 1 of
this title and chapter 53 of title 49.

“(B) PROJECTS UNDER CHAPTER 2.—

“(i) REGIONALLY SIGNIFICANT.—
Each regionally significant project prop-
osed for funding under chapter 2 shall be
identified individually in the transportation improvement program.

“(ii) NONREGIONALLY SIGNIFICANT.—A description of each project proposed for funding under chapter 2 that is not determined to be regionally significant shall be contained in 1 line item or identified individually in the transportation improvement program.

“(5) OPPORTUNITY FOR PARTICIPATION.—Before approving a transportation improvement program, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the transportation improvement program, in accordance with subsection (h)(4).

“(6) SELECTION OF PROJECTS.—

“(A) IN GENERAL.—Each tier I MPO and tier II MPO shall select projects carried out within the boundaries of the applicable metropolitan planning area from the transportation improvement program, in consultation with the relevant State and on concurrence of the affected facility owner, for funds apportioned to
the State under section 104(b)(2) and suballo-
cated to the metropolitan planning area under
section 133(d).

“(B) CMAQ PROJECTS.—Each tier I MPO
shall select projects carried out within the
boundaries of the applicable metropolitan plan-
ing area from the transportation improvement
program, in consultation with the relevant State
and on concurrence of the affected facility
owner, for funds apportioned to the State under
section 104(b)(4) and suballocated to the met-
ropolitan planning area under section 149(j).

“(C) MODIFICATIONS TO PROJECT PRI-
ORITY.—Notwithstanding any other provision of
law, approval by the Secretary shall not be re-
quired to carry out a project included in a
transportation improvement program in place of
another project in the transportation improve-
ment program.

“(7) PUBLICATION.—

“(A) IN GENERAL.—A transportation im-
provement program shall be published or other-
wise made readily available by the applicable
metropolitan planning organization for public
review in electronically accessible formats and means, such as the Internet.

“(B) ANNUAL LIST OF PROJECTS.—An annual list of projects, including investments in pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, for which Federal funds have been obligated during the preceding fiscal year shall be published or otherwise made available by the cooperative effort of the State, transit operator, and metropolitan planning organization in electronically accessible formats and means, such as the Internet, in a manner that is consistent with the categories identified in the relevant transportation improvement program.

“(k) PLANNING REQUIREMENTS FOR TIER II MPOS.—

“(1) IN GENERAL.—The Secretary may provide for the performance-based development of a metropolitan transportation plan and transportation improvement program for the metropolitan planning area of a tier II MPO, as the Secretary determines to be appropriate, taking into account—
“(A) the complexity of transportation needs in the area; and

“(B) the technical capacity of the metropolitan planning organization.

“(2) Evaluation of Performance-Based Planning.—In reviewing a tier II MPO under subsection (m), the Secretary shall take into consideration the effectiveness of the tier II MPO in implementing and maintaining a performance-based planning process that—

“(A) addresses the targets described in subsection (h)(2); and

“(B) demonstrates progress on the achievement of those targets.

“(I) Certification.—

“(1) In General.—The Secretary shall—

“(A) ensure that the metropolitan transportation planning process of a metropolitan planning organization is being carried out in accordance with applicable Federal law; and

“(B) subject to paragraph (2), certify, not less frequently than once every 4 years, that the requirements of subparagraph (A) are met with respect to the metropolitan transportation planning process.
“(2) REQUIREMENTS FOR CERTIFICATION.—

The Secretary may make a certification under paragraph (1)(B) if—

“(A) the metropolitan transportation planning process complies with the requirements of this section and other applicable Federal law; and

“(B) a transportation improvement program for the metropolitan planning area has been approved by the relevant metropolitan planning organization and Governor.

“(3) DELEGATION OF AUTHORITY.—The Secretary may—

“(A) delegate to the appropriate State fact-finding authority regarding the certification of a tier II MPO under this subsection; and

“(B) make the certification under paragraph (1) in consultation with the State.

“(4) EFFECT OF FAILURE TO CERTIFY.—

“(A) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan transportation planning process of a metropolitan planning organization is not certified under paragraph (1), the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning
area of the metropolitan planning organization
for projects funded under this title and chapter
53 of title 49.

“(B) Restoration of Withheld Funds.—Any funds withheld under subparagraph (A) shall be restored to the metropolitan planning area on the date of certification of the metropolitan transportation planning process by the Secretary.

“(5) Public Involvement.—In making a determination regarding certification under this subsection, the Secretary shall provide for public involvement appropriate to the metropolitan planning area under review.

“(m) Performance-Based Planning Processes Evaluation.—

“(1) In General.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of metropolitan planning organizations under this section, taking into consideration the following:

“(A) The extent to which the metropolitan planning organization has achieved, or is currently making substantial progress toward achieving, the targets specified in subsection
(h)(2), taking into account whether the metropolitan planning organization developed meaningful performance targets.

“(B) The extent to which the metropolitan planning organization has used proven best practices that help ensure transportation investment that is efficient and cost-effective.

“(C) The extent to which the metropolitan planning organization—

“(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

“(ii) provides regular reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the metropolitan planning organization.

“(2) REPORT.—

“(A) IN GENERAL.—Not later than 5 years after the date of enactment of the MAP–21, the Secretary shall submit to Congress a report evaluating—
“(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

“(ii) the effectiveness of the performance-based planning process of each metropolitan planning organization under this section.

“(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

“(n) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

“(1) IN GENERAL.—Notwithstanding any other provision of this title or chapter 53 of title 49, Federal funds may not be advanced in any metropolitan planning area classified as a nonattainment area or maintenance area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles, unless the owner or operator of the project demonstrates that the project will achieve or make substantial progress toward achieving the targets described in subsection (h)(2).

“(2) APPLICABILITY.—This subsection applies to any nonattainment area or maintenance area
within the boundaries of a metropolitan planning area, as determined under subsection (c).

“(o) Effect of Section.—Nothing in this section provides to any metropolitan planning organization the authority to impose any legal requirement on any transportation facility, provider, or project not subject to the requirements of this title or chapter 53 of title 49.

“(p) Funding.—Funds apportioned under section 104(b)(6) of this title and set aside under section 5305(g) of title 49 shall be available to carry out this section.

“(q) Continuation of Current Review Practice.—

“(1) In General.—In consideration of the factors described in paragraph (2), any decision by the Secretary concerning a metropolitan transportation plan or transportation improvement program shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(2) Description of Factors.—The factors referred to in paragraph (1) are that—

“(A) metropolitan transportation plans and transportation improvement programs are subject to a reasonable opportunity for public comment;
“(B) the projects included in metropolitan transportation plans and transportation improvement programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(C) decisions by the Secretary concerning metropolitan transportation plans and transportation improvement programs have not been reviewed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as of January 1, 1997.

“(r) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for metropolitan planning organizations. The Secretary shall not require a metropolitan planning organization to deviate from its established planning update cycle to implement changes made by this section. Metropolitan planning organizations shall reflect changes made to their transportation plan or transportation improvement program updates by 2 years after the date of issuance of guidance by the Secretary.”.
SEC. 1202. STATEWIDE AND NONMETROPOLITAN TRANSPORTATION PLANNING.

(a) In General.—Section 135 of title 23, United States Code, is amended to read as follows:

§135. Statewide and nonmetropolitan transportation planning

“(a) Statewide Transportation Plans and STIPs.—

“(1) Development.—

“(A) In General.—To accomplish the policy objectives described in section 134(a), each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State in accordance with this section.

“(B) Incorporation of metropolitan transportation plans and TIPS.—Each State shall incorporate in the statewide transportation plan and statewide transportation improvement program, without change or by reference, the metropolitan transportation plans and transportation improvement programs, respectively, for each metropolitan planning area in the State.

“(C) Nonmetropolitan areas.—Each State shall coordinate consult with local officials
in small urbanized and nonurbanized areas of
the State in preparing the nonmetropolitan por-
tions of statewide transportation plans and
statewide transportation improvement pro-
grams.

“(2) CONTENTS.—The statewide transportation
plan and statewide transportation improvement pro-
gram developed for each State shall provide for the
development and integrated management and oper-
ation of transportation systems and facilities (includ-
ing accessible pedestrian walkways, bicycle transpor-
tation facilities, and intermodal facilities that sup-
port intercity transportation) that will function as—

“(A) an intermodal transportation system
for the State; and

“(B) an integral part of an intermodal
transportation system for the United States.

“(3) PROCESS.—The process for developing the
statewide transportation plan and statewide trans-
portation improvement program shall—

“(A) provide for consideration of all modes
of transportation; and

“(B) be continuing, cooperative, and com-
prehensive to the degree appropriate, based on
the complexity of the transportation needs to be addressed.

"(b) COORDINATION.—

"(1) IN GENERAL.—Each State shall—

"(A) coordinate planning carried out under this section with—

"(i) the transportation planning activities carried out under section 134 for metropolitan areas of the State; and

"(ii) statewide trade and economic development planning activities and related multistate planning efforts;

"(B) coordinate planning carried out under this section with the transportation planning activities carried out by each nonmetropolitan planning organization in the State, as applicable; and

"(C) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

"(b) COORDINATION AND CONSULTATION.—

"(1) IN GENERAL.—Each State shall—

"(A) coordinate planning carried out under this section with—
“(i) the transportation planning activities carried out under section 134 for metropolitan areas of the State; and

“(ii) statewide trade and economic development planning activities and related multistate planning efforts;

“(B) coordinate planning carried out under this section with the transportation planning activities carried out by each nonmetropolitan planning organization in the State, as applicable;

“(C) consult on planning carried out under this section with the transportation planning activities carried out by each rural planning organization in the State, as applicable; and

“(D) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).

“(2) MULTISTATE AREAS.—

“(A) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan planning area and the appropriate metropolitan planning organizations to provide coordinated transpor-
tation planning for the entire metropolitan area.

“(B) Coordination along designated transportation corridors.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate transportation corridor to provide coordinated transportation planning for the entire designated corridor.

“(C) Interstate compacts.—For purposes of this section, any 2 or more States—

“(i) may enter into compacts, agreements, or organizations not in conflict with any Federal law for cooperative efforts and mutual assistance in support of activities authorized under this section, as the activities relate to interstate areas and localities within the States;

“(ii) may establish such agencies (joint or otherwise) as the States determine to be appropriate for ensuring the effectiveness of the agreements and compacts; and

“(iii) are encouraged to enter into such compacts, agreements, or organiza-
tions as are appropriate to develop planning documents in support of intercity or multistate area projects, facilities, and services, the relevant components of which shall be reflected in statewide transportation improvement programs and statewide transportation plans.

“(D) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal any interstate compact or agreement entered into under this subsection is expressly reserved.

“(c) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—

“(1) IN GENERAL.—The Secretary shall encourage each State to cooperate with Federal, tribal, State, and local officers and entities responsible for other types of planning activities that are affected by transportation in the relevant area (including planned growth, economic development, infrastructure services, housing, other public services, environmental protection, airport operations, high-speed and intercity passenger rail, freight rail, port access, and freight movements), to the maximum extent practicable, to ensure that the statewide and nonmetropolitan planning process, statewide transportation
plans, and statewide transportation improvement programs are developed with due consideration for other related planning activities in the State.

“(2) INCLUSION.—Cooperation under paragraph (1) shall include the design and delivery of transportation services within the State that are provided by—

“(A) recipients of assistance under sections 202, 203, and 204;

“(B) recipients of assistance under chapter 53 of title 49;

“(C) government agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide non-emergency transportation services; and

“(D) sponsors of regionally significant programs, projects, and services that are related to transportation and receive assistance from any public or private source.

“(d) SCOPE OF PLANNING PROCESS.—

“(1) IN GENERAL.—The statewide transportation planning process for a State under this sec-
tion shall provide for consideration of projects, strategies, and services that will—

“(A) support the economic vitality of the United States, the State, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

“(B) increase the safety of the transportation system for motorized and nonmotorized users;

“(C) increase the security of the transportation system for motorized and nonmotorized users;

“(D) increase the accessibility and mobility of individuals and freight;

“(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

“(F) enhance the integration and connectivity of the transportation system, across and between modes, for individuals and freight;
“(G) increase efficient system management and operation; and

“(H) emphasize the preservation of the existing transportation system.

“(2) PERFORMANCE-BASED APPROACH.—

“(A) IN GENERAL.—The statewide transportation planning process shall provide for the establishment and use of a performance-based approach to transportation decisionmaking to support the national goals described in section 150(b).

“(B) PERFORMANCE TARGETS.—

“(i) IN GENERAL.—Each State shall establish performance targets that address the performance measures described in sections 119(f), 148(h), 149(k), and 167(i) to use in tracking attainment of critical outcomes for the region of the State.

“(ii) COORDINATION.—Selection of performance targets by a State shall be coordinated with relevant metropolitan planning organizations to ensure consistency, to the maximum extent practicable.

“(C) INTEGRATION OF OTHER PERFORMANCE-BASED PLANS.—A State shall integrate
into the statewide transportation planning process, directly or by reference, the goals, objectives, performance measures, and targets described in this paragraph in other State plans and processes required as part of a performance-based program, including plans such as—

“(i) the State National Highway System asset management plan;

“(ii) the State strategic highway safety plan; and

“(iii) the congestion mitigation and air quality performance plan; and

“(iv) the national freight strategic plan.

“(D) USE OF PERFORMANCE MEASURES AND TARGETS.—The performance measures and targets established under this paragraph shall be used, at a minimum, by a State as the basis for development of policies, programs, and investment priorities reflected in the statewide transportation plan and statewide transportation improvement program.

“(3) FAILURE TO CONSIDER FACTORS.—The failure to take into consideration 1 or more of the factors specified in paragraphs (1) and (2) shall not
be subject to review by any court under this title, chapter 53 of title 49, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, a statewide transportation improvement program, a project or strategy, or the certification of a planning process.

“(4) Participation by interested parties.—

“(A) In general.—Each State shall provide to affected individuals, public agencies, and other interested parties notice and a reasonable opportunity to comment on the statewide transportation plan and statewide transportation improvement program.

“(B) Methods.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

“(i) develop the statewide transportation plan and statewide transportation improvement program in consultation with interested parties, as appropriate, including by the formation of advisory groups representative of the State and interested parties that participate in the development of the statewide transportation plan and
statewide transportation improvement program;

“(ii) hold any public meetings at times and locations that are, as applicable—

“(I) convenient; and

“(II) in compliance with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

“(iii) employ visualization techniques to describe statewide transportation plans and statewide transportation improvement programs; and

“(iv) make public information available in appropriate electronically accessible formats and means, such as the Internet, to afford reasonable opportunity for consideration of public information under subparagraph (A).

“(e) COORDINATION AND CONSULTATION.—

“(1) METROPOLITAN AREAS.—

“(A) IN GENERAL.—Each State shall develop a statewide transportation plan and statewide transportation improvement program for each metropolitan area in the State by incor-
porating, without change or by reference, at a minimum, as prepared by each metropolitan planning organization designated for the metropolitan area under section 134—

“(i) all regionally significant projects to be carried out during the 10-year period beginning on the effective date of the relevant existing metropolitan transportation plan; and

“(ii) all projects to be carried out during the 4-year period beginning on the effective date of the relevant transportation improvement program.

“(B) PROJECTED COSTS.—Each metropolitan planning organization shall provide to each applicable State a description of the projected costs of implementing the projects included in the metropolitan transportation plan of the metropolitan planning organization for purposes of long-range financial planning and fiscal constraint.

“(2) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas in a State, the statewide transportation plan and statewide transportation improvement program of the State shall be developed
in coordination consultation with affected nonmetropolitan local officials with responsibility for transportation.

“(3) INDIAN TRIBAL AREAS.—With respect to each area of a State under the jurisdiction of an Indian tribe, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in consultation with—

“(A) the tribal government; and

“(B) the Secretary of the Interior.

“(4) FEDERAL LAND MANAGEMENT AGENCIES.—With respect to each area of a State under the jurisdiction of a Federal land management agency, the statewide transportation plan and statewide transportation improvement program of the State shall be developed in consultation with the relevant Federal land management agency.

“(5) CONSULTATION, COMPARISON, AND CONSIDERATION.—

“(A) IN GENERAL.—A statewide transportation plan shall be developed, as appropriate, in consultation with Federal, tribal, State, and local agencies responsible for land use management, natural resources, infrastructure permit-
ting, environmental protection, conservation, and historic preservation.

“(B) COMPARISON AND CONSIDERATION.—
Consultation under subparagraph (A) shall involve the comparison of statewide transportation plans to, as available—

“(i) Federal, tribal, State, and local conservation plans or maps; and

“(ii) inventories of natural or historic resources.

“(f) STATEWIDE TRANSPORTATION PLAN.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—Each State shall develop a statewide transportation plan, the forecast period of which shall be not less than 20 years for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

“(B) INITIAL PERIOD.—A statewide transportation plan shall include, at a minimum, for the first 10-year period of the statewide transportation plan, the identification of existing and future transportation facilities that will function as an integrated statewide transportation system, giving emphasis to those facilities that
serve important national, statewide, and re-

gional transportation functions.

“(C) SUBSEQUENT PERIOD.—For the sec-
ond 10-year period of the statewide transpor-
tation plan (referred to in this subsection as the
‘outer years period’), a statewide transportation
plan—

“(i) may include identification of fu-
ture transportation facilities; and

“(ii) shall describe the policies and
strategies that provide for the development
and implementation of the intermodal
transportation system of the State.

“(D) OTHER REQUIREMENTS.—A state-
wide transportation plan shall—

“(i) include, for the 20-year period
covered by the statewide transportation
plan, a description of—

“(I) the projected aggregate cost
of projects anticipated by a State to
be implemented; and

“(II) the revenues necessary to
support the projects;
“(ii) include, in such form as the Secretary determines to be appropriate, a description of—

“(I) the existing transportation infrastructure, including an identification of highways, local streets and roads, bicycle and pedestrian facilities, transit facilities and services, commuter rail facilities and services, high-speed and intercity passenger rail facilities and services, freight facilities (including freight railroad and port facilities), multimodal and intermodal facilities, and intermodal connectors that, evaluated in the aggregate, function as an integrated transportation system;

“(II) the performance measures and performance targets used in assessing the existing and future performance of the transportation system described in subsection (d)(2);

“(III) the current and projected future usage of the transportation system, including, to the maximum
extent practicable, an identification of
existing or planned transportation
rights-of-way, corridors, facilities, and
related real properties;

“(IV) a system performance re-
port evaluating the existing and fu-
ture condition and performance of the
transportation system with respect to
the performance targets described in
subsection (d)(2) and updates to sub-
sequent system performance reports,
including—

“(aa) progress achieved by
the State in meeting performance
targets, as compared to system
performance recorded in previous
reports; and

“(bb) an accounting of the
performance by the State on out-
lay of obligated project funds and
delivery of projects that have
reached substantial completion,
in relation to the projects cur-
rently on the statewide transpor-
tation improvement program and
those projects that have been re-
moved from the previous state-
wide transportation improvement
program;

“(V) recommended strategies and
investments for improving system per-
formance over the planning horizon,
including transportation systems man-
agement and operations strategies,
maintenance strategies, demand man-
agement strategies, asset management
strategies, capacity and enhancement
investments, land use improvements,
intelligent transportation systems de-
ployment and technology adoption
strategies as determined by the pro-
jected support of targets described in
subsection (d)(2);

“(VI) recommended strategies
and investments to improve and inte-
grate disability-related access to
transportation infrastructure;

“(VII) investment priorities for
using projected available and proposed
revenues over the short- and long-
term stages of the planning horizon, in accordance with the financial plan required under paragraph (2);

“(VIII) a description of interstate compacts entered into in order to promote coordinated transportation planning in multistate areas, if applicable;

“(IX) an optional illustrative list of projects containing investments that—

“(aa) are not included in the statewide transportation plan; but

“(bb) would be so included if resources in addition to the resources identified in the financial plan under paragraph (2) were available;

“(X) a discussion (developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies) of types of potential environmental and stormwater mitigation activities and potential
areas to carry out those activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the statewide transportation plan; and

“(XI) recommended strategies and investments, including those developed by the State as part of interstate compacts, agreements, or organizations, that support intercity transportation; and

“(iii) be updated by the State not less frequently than once every 5 years.

“(2) FINANCIAL PLAN.—A financial plan referred to in paragraph (1)(D)(ii)(VII) shall—

“(A) be prepared by each State to support the statewide transportation plan; and

“(B) contain a description of each of the following:

“(i) Projected resource requirements during the 20-year planning horizon for implementing projects, strategies, and services recommended in the statewide transportation plan, including existing and
projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs.

“(ii) The projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment).

“(iii) Estimates of future funds, to be developed cooperatively by the State, any public transportation agency, and relevant metropolitan planning organizations, that are reasonably expected to be available to support the investment priorities recommended in the statewide transportation plan.

“(iv) Each applicable project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.
“(v) For the outer years period of the statewide transportation plan, a description of the aggregate cost ranges or bands, subject to the condition that any future funding source shall be reasonably expected to be available to support the projected cost ranges or bands.

“(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—For any nonmetropolitan area that is a nonattainment area or maintenance area, the State shall coordinate the development of the statewide transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act (42 U.S.C. 7401 et seq.).

“(4) PUBLICATION.—A statewide transportation plan involving Federal and non-Federal participation programs, projects, and strategies shall be published or otherwise made readily available by the State for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the Internet, in such manner as the Secretary shall require.

“(5) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2), a
State shall not be required to select any project from the illustrative list of additional projects included in the statewide transportation plan under paragraph (1)(D)(ii)(IX).

“(6) USE OF POLICY PLANS.—Notwithstanding any other provision of this section, a State that has in effect, as of the date of enactment of the MAP-21, a statewide transportation plan that follows a policy plan approach—

“(A) may, for 4 years after the date of enactment of the MAP–21, continue to use a policy plan approach to the statewide transportation plan; and

“(B) shall be subject to the requirements of this subsection only to the extent that such requirements were applicable under this section (as in effect on the day before the date of enactment of the MAP-21).

“(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAMS.—

“(1) DEVELOPMENT.—

“(A) IN GENERAL.—In cooperation consultation with nonmetropolitan officials with responsibility for transportation and affected public transportation operators, the State shall de-
velop a statewide transportation improvement program for the State that—

“(i) includes projects consistent with the statewide transportation plan;

“(ii) reflects the investment priorities established in the statewide transportation plan; and

“(iii) once implemented, makes significant progress toward achieving the targets described in subsection (d)(2).

“(B) OPPORTUNITY FOR PARTICIPATION.—In developing a statewide transportation improvement program, the State, in cooperation with affected public transportation operators, shall provide an opportunity for participation by interested parties in the development of the statewide transportation improvement program, in accordance with subsection (e).

“(C) OTHER REQUIREMENTS.—

“(i) IN GENERAL.—A statewide transportation improvement program shall—

“(I) cover a period of not less than 4 years; and

“(II) be updated not less frequently than once every 4 years, or
more frequently, as the Governor determines to be appropriate.

“(ii) INCORPORATION OF TIPS.—A statewide transportation improvement program shall incorporate any relevant transportation improvement program developed by a metropolitan planning organization under section 134, without change.

“(iii) PROJECTS.—Each project included in a statewide transportation improvement program shall be—

“(I) consistent with the statewide transportation plan developed under this section for the State;

“(II) identical to a project or phase of a project described in a relevant transportation improvement program; and

“(III) for any project located in a nonattainment area or maintenance area, carried out in accordance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.).
“(2) CONTENTS.—

“(A) PRIORITY LIST.—A statewide transportation improvement program shall include a priority list of proposed federally supported projects and strategies, to be carried out during the 4-year period beginning on the date of adoption of the statewide transportation improvement program, and during each 4-year period thereafter, using existing and reasonably available revenues in accordance with the financial plan under paragraph (3).

“(B) DESCRIPTIONS.—Each project or phase of a project included in a statewide transportation improvement program shall include sufficient descriptive material (such as type of work, termini, length, estimated completion date, and other similar factors) to identify—

“(i) the project or project phase; and

“(ii) the effect that the project or project phase will have in addressing the targets described in subsection (d)(2).

“(C) PERFORMANCE TARGET ACHIEVEMENT.—A statewide transportation improvement program shall include, to the maximum extent practicable, a discussion of the antici-
pated effect of the statewide transportation im-
provement program toward achieving the per-
formance targets established in the statewide
transportation plan, linking investment prior-
ities to those performance targets.

“(D) ILLUSTRATIVE LIST OF PROJECTS.—
An optional illustrative list of projects may be
prepared containing additional investment pri-
orities that—

“(i) are not included in the statewide
transportation improvement program; but

“(ii) would be so included if resources
in addition to the resources identified in
the financial plan under paragraph (3)
were available.

“(3) FINANCIAL PLAN.—A financial plan re-
ferred to in paragraph (2)(A) shall—

“(A) be prepared by each State to support
the statewide transportation improvement pro-
gram; and

“(B) contain a description of each of the
following:

“(i) Projected resource requirements
for implementing projects, strategies, and
services recommended in the statewide
transportation improvement program, including existing and projected system operating and maintenance needs, proposed enhancement and expansions to the system, projected available revenue from Federal, State, local, and private sources, and innovative financing techniques to finance projects and programs.

“(ii) The projected difference between costs and revenues, and strategies for securing additional new revenue (such as by capture of some of the economic value created by any new investment).

“(iii) Estimates of future funds, to be developed cooperatively by the State and relevant metropolitan planning organizations and public transportation agencies, that are reasonably expected to be available to support the investment priorities recommended in the statewide transportation improvement program.

“(iv) Each applicable project, only if full funding can reasonably be anticipated to be available for the project within the
time period contemplated for completion of
the project.

“(4) Included projects.—

“(A) Projects under this title and
chapter 53 of title 49.—A statewide trans-
portation improvement program developed
under this subsection for a State shall include
the projects within the State that are proposed
for funding under chapter 1 of this title and
chapter 53 of title 49.

“(B) Projects under chapter 2.—

“(i) Regionally significant.—
Each regionally significant project pro-
posed for funding under chapter 2 shall be
identified individually in the statewide
transportation improvement program.

“(ii) Nonregionally significant.—A description of each project pro-
posed for funding under chapter 2 that is
not determined to be regionally significant
shall be contained in 1 line item or identi-
fied individually in the statewide transpor-
tation improvement program.

“(5) Publication.—
“(A) IN GENERAL.—A statewide transportation improvement program shall be published or otherwise made readily available by the State for public review in electronically accessible formats and means, such as the Internet.

“(B) ANNUAL LIST OF PROJECTS.—An annual list of projects, including investments in pedestrian walkways, bicycle transportation facilities, and intermodal facilities that support intercity transportation, for which Federal funds have been obligated during the preceding fiscal year shall be published or otherwise made available by the cooperative effort of the State, transit operator, and relevant metropolitan planning organizations in electronically accessible formats and means, such as the Internet, in a manner that is consistent with the categories identified in the relevant statewide transportation improvement program.

“(6) PROJECT SELECTION FOR URBANIZED AREAS WITH POPULATIONS OF FEWER THAN 200,000 NOT REPRESENTED BY DESIGNATED MPOS.—Projects carried out in urbanized areas with populations of fewer than 200,000 individuals, and that are not represented by designated metropolitan plan-
ning organizations, shall be selected, from the ap-
proved statewide transportation improvement pro-
gram (including projects carried out on the National
Highway System and other projects carried out
under this title or under sections 5310 and 5311 of
title 49) by the State, in cooperation with the af-
fected nonmetropolitan planning organization, if any
exists, and in consultation with the affected non-
metropolitan area local officials with responsibility
for transportation.

“(7) APPROVAL BY SECRETARY.—

“(A) IN GENERAL.—Not less frequently
than once every 4 years, a statewide transpor-
tation improvement program developed under
this subsection shall be reviewed and approved
by the Secretary, based on the current planning
finding of the Secretary under subparagraph
(B).

“(B) PLANNING FINDING.—The Secretary
shall make a planning finding referred to in
subparagraph (A) not less frequently than once
every 5 years regarding whether the transpor-
tation planning process through which statewide
transportation plans and statewide transpor-
transportation improvement programs are developed is consistent with this section and section 134.

“(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, approval by the Secretary shall not be required to carry out a project included in an approved statewide transportation improvement program in place of another project in the statewide transportation improvement program.

“(h) CERTIFICATION.—

“(1) IN GENERAL.—The Secretary shall—

“(A) ensure that the statewide transportation planning process of a State is being carried out in accordance with applicable Federal law; and

“(B) subject to paragraph (2), certify, not less frequently than once every 5 years, that the requirements of subparagraph (A) are met with respect to the statewide transportation planning process.

“(2) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make a certification under paragraph (1)(B) if—
“(A) the statewide transportation planning process complies with the requirements of this section and other applicable Federal law; and

“(B) a statewide transportation improvement program for the State has been approved by the Governor of the State.

“(3) **Effect of failure to certify.**—

“(A) **Withholding of project funds.**—If a statewide transportation planning process of a State is not certified under paragraph (1), the Secretary may withhold up to 20 percent of the funds attributable to the State for projects funded under this title and chapter 53 of title 49.

“(B) **Restoration of withheld funds.**—Any funds withheld under subparagraph (A) shall be restored to the State on the date of certification of the statewide transportation planning process by the Secretary.

“(4) **Public involvement.**—In making a determination regarding certification under this subsection, the Secretary shall provide for public involvement appropriate to the State under review.

“(i) **Performance-based planning processes evaluation.**—
“(1) IN GENERAL.—The Secretary shall establish criteria to evaluate the effectiveness of the performance-based planning processes of States, taking into consideration the following:

“(A) The extent to which the State has achieved, or is currently making substantial progress toward achieving, the targets described in subsection (d)(2), taking into account whether the State developed meaningful performance targets.

“(B) The extent to which the State has used proven best practices that help ensure transportation investment that is efficient and cost-effective.

“(C) The extent to which the State—

“(i) has developed an investment process that relies on public input and awareness to ensure that investments are transparent and accountable; and

“(ii) provides regular reports allowing the public to access the information being collected in a format that allows the public to meaningfully assess the performance of the State.

“(2) REPORT.—
“(A) IN GENERAL.—Not later than 5 years after the date of enactment of the MAP–21, the Secretary shall submit to Congress a report evaluating—

“(i) the overall effectiveness of performance-based planning as a tool for guiding transportation investments; and

“(ii) the effectiveness of the performance-based planning process of each State.

“(B) PUBLICATION.—The report under subparagraph (A) shall be published or otherwise made available in electronically accessible formats and means, including on the Internet.

“(j) FUNDING.—Funds apportioned under section 104(b)(6) of this title and set aside under section 5305(g) of title 49 shall be available to carry out this section.

“(k) CONTINUATION OF CURRENT REVIEW PRACTICE.—

“(1) IN GENERAL.—In consideration of the factors described in paragraph (2), any decision by the Secretary concerning a statewide transportation plan or statewide transportation improvement program shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).
“(2) DESCRIPTION OF FACTORS.—The factors referred to in paragraph (1) are that—

“(A) statewide transportation plans and statewide transportation improvement programs are subject to a reasonable opportunity for public comment;

“(B) the projects included in statewide transportation plans and statewide transportation improvement programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(C) decisions by the Secretary concerning statewide transportation plans and statewide transportation improvement programs have not been reviewed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as of January 1, 1997.

“(l) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for States. The Secretary shall not require a State to deviate from its established planning update cycle to implement changes made by this section. States shall reflect changes made to their transportation plan or transportation improvement
program updates by 2 years after the date of issuance of guidance by the Secretary.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 135 and inserting the following:

“135. Statewide and nonmetropolitan transportation planning.”.

SEC. 1203. NATIONAL GOALS.

(a) IN GENERAL.—Section 150 of title 23, United States Code, is amended to read as follows:

“§ 150. National goals

“(a) DECLARATION OF POLICY.—Performance management will transform the Federal-aid highway program and provide a means to the most efficient investment of Federal transportation funds by refocusing on national transportation goals, increasing the accountability and transparency of the Federal-aid highway program, and improving project decisionmaking through performance-based planning and programming.

“(b) NATIONAL GOALS.—It is in the interest of the United States to focus the Federal-aid highway program on the following national goals:

“(1) SAFETY.—To achieve a significant reduction in traffic fatalities and serious injuries on all public roads.
“(2) INFRASTRUCTURE CONDITION.—To maintain the highway infrastructure asset system in a state of good repair.

“(3) SYSTEM RELIABILITY.—To improve the efficiency of the surface transportation system.

“(4) FREIGHT MOVEMENT AND ECONOMIC VITALITY.—To improve the national freight network, strengthen the ability of rural communities to access national and international trade markets, and support regional economic development.

“(5) ENVIRONMENTAL SUSTAINABILITY.—To enhance the performance of the transportation system while protecting and enhancing the natural environment.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 150 and inserting the following:

“150. National goals.”.

Subtitle C—Acceleration of Project Delivery

SEC. 1301. PROJECT DELIVERY INITIATIVE.

(a) DECLARATION OF POLICY.—It is the policy of the United States that—

(1) it is in the national interest for the Department, State departments of transportation, transit
agencies, and all other recipients of Federal trans-
portation funds—

(A) to accelerate project delivery and re-
duce costs; and

(B) to ensure that the planning, design,
engineering, construction, and financing of
transportation projects is done in an efficient
and effective manner, promoting accountability
for public investments and encouraging greater
private sector involvement in project financing
and delivery while enhancing safety and pro-
tecting the environment;

(2) delay in the delivery of transportation
projects increases project costs, harms the economy
of the United States, and impedes the travel of the
people of the United States and the shipment of
goods for the conduct of commerce; and

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

(b) ESTABLISHMENT OF INITIATIVE.—
(1) In General.—To advance the policy described in subsection (a), the Secretary shall carry out a project delivery initiative under this section.

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

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

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

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

(3) Advancing the Use of Best Practices.—

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

(i) engage interested parties, affected communities, resource agencies, and other stakeholders to gather information regarding opportunities for accelerating project delivery and reducing costs;

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

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

(iv) provide technical assistance to assist transportation stakeholders in the use of flexibility authority to resolve project delays and accelerate project delivery if feasible.

(4) Implementation of accelerated project delivery.—The Secretary shall ensure that the provisions of this subtitle designed to accelerate project delivery are fully implemented, including—
(A) expanding eligibility of early acquisition of property prior to completion of environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) allowing the use of the construction manager or general contractor method of contracting in the Federal-aid highway system; and

(C) establishing a demonstration program to streamline the relocation process by permitting a lump-sum payment for acquisition and relocation if elected by the displaced occupant.

SEC. 1302. CLARIFIED ELIGIBILITY FOR EARLY ACQUISITION ACTIVITIES PRIOR TO COMPLETION OF NEPA REVIEW.

(a) In general.—The acquisition of real property in anticipation of a federally assisted or approved surface transportation project that may use the property shall not be prohibited prior to the completion of reviews of the surface transportation project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if the acquisition does not—

(1) have an adverse environmental effect; or

(2)(A) limit the choice of reasonable alternatives for the proposed project; or
(B) prevent the lead agency from making an
impartial decision as to whether to select an alter-
native that is being considered during the environ-
mental review process.

(b) EARLY ACQUISITION OF REAL PROPERTY INTER-
ESTS FOR HIGHWAYS.—Section 108 of title 23, United
States Code, is amended—

(1) in the section heading by inserting “interests” after “real property”;

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

(3) in subsection (c)—

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

(B) in paragraph (1)—

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

(ii) in subparagraph (A)—

(I) by striking “rights-of-way”
the first place it appears and inserting
“real property interests”; and

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

(C) by striking paragraph (2) and insert-
ing the following:

“(2) TERMS AND CONDITIONS.—

“(A) ACQUISITION OF REAL PROPERTY IN-
TERESTS.—

“(i) IN GENERAL.—Subject to the
other provisions of this section, prior to
completion of the review process for the
project required by the National Environ-
mental Policy Act of 1969 (42 U.S.C.
4321 et seq.), a public authority may carry
out acquisition of real property interests
that may be used for a project.

“(ii) REQUIREMENTS.—An acquisition
under clause (i) may be authorized by
project agreement and is eligible for Fed-
eral-aid reimbursement as a project ex-
pense if the Secretary finds that the acqui-
sition—

“(I) will not cause any significant
adverse environmental impact;

“(II) will not limit the choice of
reasonable alternatives for the project
or otherwise influence the decision of
the Secretary on any approval re-
quired for the project;

“(III) does not prevent the lead
agency from making an impartial de-
cision as to whether to accept an al-
ternative that is being considered in
the environmental review process;

“(IV) is consistent with the State
transportation planning process under
section 135;

“(V) complies with other applica-
ble Federal laws (including regula-
tions);

“(VI) will be acquired through
negotiation, without the threat of con-
demnation; and

“(VII) will not result in a reduc-
tion or elimination of benefits or as-
sistance to a displaced person re-
quired by the Uniform Relocation As-
sistance and Real Property Acquisi-
tion Policies Act of 1970 (42 U.S.C.
4601 et seq.) and title VI of the Civil

“(B) Development.—Real property interests acquired under this subsection may not be developed in anticipation of a project until all required environmental reviews for the project have been completed.

“(C) Reimbursement.—If Federal-aid reimbursement is made for real property interests acquired early under this section and the real property interests are not subsequently incorporated into a project eligible for surface transportation funds within the time allowed by subsection (a)(2), the Secretary shall offset the amount reimbursed against funds apportioned to the State.

“(D) Other Conditions.—The Secretary may establish such other conditions or restrictions on acquisitions as the Secretary determines to be appropriate.”.

SEC. 1303. EFFICIENCIES IN CONTRACTING.

(a) Authority.—Section 112(b) of title 23, United States Code, is amended by adding at the end the following:
“(4) Construction manager; general contractor.—

“(A) Procedure.—

“(i) In general.—A contracting agency may award a 2-phase contract to a construction manager or general contractor for preconstruction and construction services.

“(ii) Preconstruction phase.—In the preconstruction phase of a contract under this subparagraph, the construction manager shall provide the contracting agency with advice relating to scheduling, work sequencing, cost engineering, constructability, cost estimating, and risk identification.

“(iii) Agreement to price.—

“(I) In general.—Prior to the start of the second phase of a contract under this subparagraph, the owner and the construction manager may agree to a price for the construction of the project or a portion of the project.
“(II) RESULT.—If an agreement is reached, the construction manager shall become the general contractor for the construction of the project at the negotiated schedule and price.

“(B) SELECTION.—A contract shall be awarded to a construction manager or general contractor under this paragraph using a competitive selection process under which the contract is awarded on the basis of—

“(i) qualifications;

“(ii) experience;

“(iii) best value; or

“(iv) any other combination of factors considered appropriate by the contracting agency.

“(C) TIMING.—

“(i) IN GENERAL.—Prior to the completion of the environmental review process required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), a contracting agency may issue requests for proposals, proceed with the award of the first phase of construction manager or general contractor con-
tract, and issue notices to proceed with preliminary design, to the extent that those actions do not limit any reasonable range of alternatives.

“(ii) NEPA PROCESS.—

“(I) IN GENERAL.—A contracting agency shall not proceed with the award of the second phase, and shall not proceed, or permit any consultant or contractor to proceed, with final design or construction until completion of the environmental review process required under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

“(II) REQUIREMENT.—The Secretary shall require that a contract include appropriate provisions to ensure achievement of the objectives of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) and compliance with other applicable Federal laws and regulations occurs.
“(iii) Secretarial Approval.—
Prior to authorizing construction activities, the Secretary shall approve—

“(I) the estimate of the contracting agency for the entire project; and

“(II) any price agreement with the general contractor for the project or a portion of the project.

“(iv) Termination Provision.—The Secretary shall require a contract to include an appropriate termination provision in the event that a no-build alternative is selected.”.

(b) Regulations.—The Secretary shall promulgate such regulations as are necessary to carry out the amendment made by subsection (a).

(c) Effect on Experimental Program.—Nothing in this section or the amendment made by this section affects the authority to carry out, or any project carried out under, any experimental program concerning construction manager risk that is being carried out by the Secretary as of the date of enactment of this Act.

SEC. 1304. INNOVATIVE PROJECT DELIVERY METHODS.

(a) Declaration of Policy.—
(1) IN GENERAL.—Congress declares that it is in the national interest to promote the use of innovative technologies and practices that increase the efficiency of construction of, improve the safety of, and extend the service life of highways and bridges.

(2) INCLUSIONS.—The innovative technologies and practices described in paragraph (1) include state-of-the-art intelligent transportation system technologies, elevated performance standards, and new highway construction business practices that improve highway safety and quality, accelerate project delivery, and reduce congestion related to highway construction.

(b) FEDERAL SHARE.—Section 120(e) of title 23, United States Code, is amended by adding at the end the following:

“(3) INNOVATIVE PROJECT DELIVERY.—

“(A) IN GENERAL.—Except as provided in subparagraph (C), the Federal share payable on account of a project or activity carried out with funds apportioned under paragraph (1), (2), or (5) of section 104(b) may, at the discretion of the State, be up to 100 percent for any such project, program, or activity that the Secretary determines—
“(i) contains innovative project delivery methods that improve work zone safety for motorists or workers and the quality of the facility;

“(ii) contains innovative technologies, manufacturing processes, financing, or contracting methods that improve the quality, extend the service life, or decrease the long-term costs of maintaining highways and bridges;

“(iii) accelerates project delivery while complying with other applicable Federal laws (including regulations) and not causing any significant adverse environmental impact; or

“(iv) reduces congestion related to highway construction.

“(B) EXAMPLES.—Projects, programs, and activities described in subparagraph (A) may include the use of—

“(i) prefabricated bridge elements and systems and other technologies to reduce bridge construction time;

“(ii) innovative construction equipment, materials, or techniques, including
the use of in-place recycling technology
and digital 3-dimensional modeling tech-
nologies;

“(iii) innovative contracting methods,
including the design-build and the con-
struction manager-general contractor con-
tracting methods;

“(iv) intelligent compaction equip-
ment; or

“(v) contractual provisions that offer
a contractor an incentive payment for early
completion of the project, program, or ac-
tivity, subject to the condition that the in-
centives are accounted for in the financial
plan of the project, when applicable.

“(C) LIMITATIONS.—

“(i) IN GENERAL.—In each fiscal
year, a State may use the authority under
subparagraph (A) for up to 10 percent of
the combined apportionments of the State
under paragraphs (1), (2), and (5) of sec-
ction 104(b).

“(ii) FEDERAL SHARE INCREASE.—
The Federal share payable on account of a
project or activity described in subpara-
graph (A) may be increased by up to 5 percent of the total project cost.”.

SEC. 1305. ASSISTANCE TO AFFECTED STATE AND FEDERAL AGENCIES.

Section 139(j) of title 23, United States Code, is amended by adding at the end the following:

“(6) MEMORANDUM OF UNDERSTANDING.—Prior to providing funds approved by the Secretary for dedicated staffing at an affected Federal agency under paragraphs (1) and (2), the affected Federal agency and the State agency shall enter into a memorandum of understanding that establishes the projects and priorities to be addressed by the use of the funds.”.

SEC. 1306. APPLICATION OF CATEGORICAL EXCLUSIONS FOR MULTIMODAL PROJECTS.

(a) IN GENERAL.—Section 304 of title 49, United States Code, is amended to read as follows:

“§ 304. Application of categorical exclusions for multimodal projects

“(a) DEFINITIONS.—In this section:

“(1) COOPERATING AUTHORITY.—The term ‘co-operating authority’ means a Department of Transportation operating authority that is not the lead authority.
“(2) LEAD AUTHORITY.—The term ‘lead authority’ means a Department of Transportation operating administration or secretarial office that—

“(A) is the lead authority over a proposed multimodal project; and

“(B) has determined that the components of the project that fall under the modal expertise of the lead authority—

“(i) satisfy the conditions for a categorical exclusion under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) implementing regulations or procedures of the lead authority; and

“(ii) do not require the preparation of an environmental assessment or an environmental impact statement under that Act.

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

“(b) EXERCISE OF AUTHORITIES.—The authorities granted in this section may be exercised for a multimodal project, class of projects, or program of projects that are carried out under this title.
“(c) Application of Categorical Exclusions for Multimodal Projects.—When considering the environmental impacts of a proposed multimodal project, a lead authority may apply a categorical exclusion designated under the implementing regulations or procedures of a cooperating authority for other components of the project, on the conditions that—

“(1) the multimodal project is funded under 1 grant agreement administered by the lead authority;

“(2) the multimodal project has components that require the expertise of a cooperating authority to assess the environmental impacts of the components;

“(3) the component of the project to be covered by the categorical exclusion of the cooperating authority has independent utility;

“(4) the cooperating authority, in consultation with the lead authority, follows National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) implementing regulations or procedures and determines that a categorical exclusion under that Act applies to the components; and

“(5) the lead authority has determined that—

“(A) the project, using the categorical exclusions of the lead and cooperating authorities,
does not individually or cumulatively have a sign-
ificant impact on the environment; and

“(B) extraordinary circumstances do not
exist that merit further analysis and docu-
mentation in an environmental impact state-
ment or environmental assessment required
under the National Environmental Policy Act of
1969 (42 U.S.C. 4321 et seq.).

“(d) MODAL COOPERATION.—

“(1) IN GENERAL.—A cooperating authority
shall provide modal expertise to a lead authority
with administrative authority over a multimodal
project on such aspects of the project in which the
cooperating authority has expertise.

“(2) USE OF CATEGORICAL EXCLUSION.—In a
case described in paragraph (1), the 1 or more cat-
egorical exclusions of a cooperating authority may be
applied by the lead authority once the cooperating
authority reviews the project on behalf of the lead
authority and determines the project satisfies the
conditions for a categorical exclusion under the Na-
tional Environmental Policy Act of 1969 (42 U.S.C.
4321 et seq.) implementing regulations or proce-
dures of the cooperating authority and this sec-

(b) Conforming Amendment.—The item relating
to section 304 in the analysis for title 49, United States
Code, is amended to read as follows:

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

SEC. 1307. STATE ASSUMPTION OF RESPONSIBILITIES FOR
CATEGORICAL EXCLUSIONS.

Section 326 of title 23, United States Code, is
amended—

(1) in subsection (c) by striking paragraph (3) and
inserting the following:

“(3) Sovereign immunity.—By executing an
agreement with the Secretary and assuming the res-
sponsibilities of the Secretary under this section, the
State waives the sovereign immunity of the State
under the 11th Amendment of the Constitution from
suit in Federal court and expressly consents to ac-
cept the jurisdiction of the Federal courts with re-
spect to any action relating to the compliance, dis-
charge, and enforcement of any responsibility of the
Secretary that the State assumes.”;

(2)(1) by striking subsection (d) and inserting
the following:

“(d) Termination.—

“(1) Termination by the secretary.—The
Secretary may terminate any assumption of respon-
sibility under a memorandum of understanding on a
determination that the State is not adequately carry-
ing out the responsibilities assigned to the State.

“(2) TERMINATION BY THE STATE.—The State
may terminate the participation of the State in the
program at any time by providing to the Secretary
a notice by not later than the date that is 90 days
before the date of termination, and subject to such
terms and conditions as the Secretary may pro-
vide.”; and

(3) by adding at the end the following:

“(f) LEGAL FEES.—A State assuming the respon-
sibilities of the Secretary under this section for a specific
project may use funds apportioned to the State under sec-
tion 104(b)(2) for attorneys fees directly attributable to
eligible activities associated with the project.”.

SEC. 1308. SURFACE TRANSPORTATION PROJECT DELIV-
ERY PROGRAM.

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

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

(2) in subsection (a)—

(A) in paragraph (1) by striking “pilot”;

and

(B) in paragraph (2)—
(i) in subparagraph (B) by striking clause (ii) and inserting the following:

“(ii) the Secretary may not assign—

“(I) any responsibility imposed on the Secretary by section 134 or 135; or

“(II) responsibility for any conformity determination required under section 176 of the Clean Air Act (42 U.S.C. 7506).”; and

(ii) by adding at the end the following:

“(F) SOVEREIGN IMMUNITY.—By executing an agreement with the Secretary and assuming the responsibilities of the Secretary under this section, the State waives the sovereign immunity of the State under the 11th Amendment of the Constitution from suit in Federal court and expressly consents to accept the jurisdiction of the Federal courts with respect to any action relating to the compliance, discharge, and enforcement of any responsibility of the Secretary that the State assumes.

“(G)(F) LEGAL FEES.—A State assuming the responsibilities of the Secretary under this
section for a specific project may use funds ap-
portioned to the State under section 104(b)(2)
for attorneys fees directly attributable to eligi-
ble activities associated with the project.”;
(3) in subsection (b)—
   (A) by striking paragraph (1);
   (B) by redesignating paragraphs (2)
through (5) as paragraphs (1) through (4), re-
spectively; and
   (C) in subparagraph (A) of paragraph (3)
(as so redesignated) by striking “(2)” and in-
serting “(1)”;
(4) in subsection (c)—
   (A) in paragraph (3)(D) by striking the
period at the end and inserting a semicolon;
and
   (B) by adding at the end the following:
   “(4) require the State to provide to the Sec-
retary any information the Secretary considers nec-
essary to ensure that the State is adequately car-
rying out the responsibilities assigned to the State;
“(5) require the Secretary—
“(A) after a period of 5 years, to evaluate
the ability of the State to carry out the respon-
sibility assumed under this section;
“(B) if the Secretary determines that the State is not ready to effectively carry out the responsibilities the State has assumed, to re-evaluate the readiness of the State every 3 years, or at such other frequency as the Secretary considers appropriate, after the initial 5-year evaluation, until the State is ready to assume the responsibilities on a permanent basis; and

“(C) once the Secretary determines that the State is ready to permanently assume the responsibilities of the Secretary, not to require any further evaluations; and

“(6) require the State to provide the Secretary with any information, including regular written reports, as the Secretary may require in conducting evaluations under paragraph (5).”;

(5) by striking subsection (g);

(6) by redesignating subsections (h) and (i) as subsections (g) and (h), respectively; and

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

(A) by striking paragraph (1);

(B) by redesignating paragraph (2) as paragraph (1); and
(C) by inserting after paragraph (1) (as so redesignated) the following:

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

(b) CONFORMING AMENDMENT.—The item relating to section 327 in the analysis of title 23, United States Code, is amended to read as follows:

“327. Surface transportation project delivery program.”.

SEC. 1309. CATEGORICAL EXCLUSION FOR PROJECTS WITHIN THE RIGHT-OF-WAY.

(a) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Secretary shall publish a notice of proposed rulemaking for a categorical exclusion that meets the definitions (as in effect on that date) of section 1508.4 of title 40, Code of Federal Regulations, and section 771.117 of title 23, Code of Federal Regulations, for a project (as defined in section 101(a) of title 23, United States Code)—

(1) that is located solely within the right-of-way of an existing highway, such as new turn lanes and bus pull-offs;
that does not include the addition of a through lane or new interchange; and

(3) for which the project sponsor demonstrates that the project—

(A) is intended to improve safety, alleviate congestion, or improve air quality; or

(B) would improve or maintain pavement or structural conditions or achieve a state of good repair.

(b) NOTICE.—Not later than 60 days after the date of enactment of this Act, the Secretary shall publish a notice of proposed rulemaking to further define and implement subsection (a) within subsection (c) or (d) of section 771.117 of title 23, Code of Federal Regulations (as in effect on the date of enactment of the MAP–21).

SEC. 1310. PROGRAMMATIC AGREEMENTS AND ADDITIONAL CATEGORICAL EXCLUSIONS.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary shall—

(1) survey the use by the Department of Transportation of categorical exclusions in transportation projects since 2005;

(2) publish a review of the survey that includes a description of—
(A) the types of actions categorically excluded; and

(B) any requests previously received by the Secretary for new categorical exclusions; and

(3) solicit requests from State departments of transportation, transit authorities, metropolitan planning organizations, or other government agencies for new categorical exclusions.

(b) NEW CATEGORICAL EXCLUSIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall publish a notice of proposed rulemaking to propose new categorical exclusions received by the Secretary under subsection (a), to the extent that the categorical exclusions meet the criteria for a categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations and section 771.117(a) of title 23, Code of Federal Regulations (as those regulations are in effect on the date of the notice).

(c) ADDITIONAL ACTIONS.—The Secretary shall issue a proposed rulemaking to move the following types of actions from subsection (d) of section 771.117 of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act), to subsection (e) of that section, to the extent that such movement complies with the criteria for a categorical exclusion under section 1508.4 of
title 40, Code of Federal Regulations (as in effect on the
date of enactment of this Act):

(1) Modernization of a highway by resurfacing,
restoration, rehabilitation, reconstruction, adding
shoulders, or adding auxiliary lanes (including park-
ing, weaving, turning, and climbing).

(2) Highway safety or traffic operations im-
provement projects, including the installation of
ramp metering control devices and lighting.

(3) Bridge rehabilitation, reconstruction, or re-
placement or the construction of grade separation to
replace existing at-grade railroad crossings.

(d) PROGRAMMATIC AGREEMENTS.—

(1) IN GENERAL.—The Secretary shall seek op-
portunities to enter into programmatic agreements
with the States that establish efficient administra-
tive procedures for carrying out environmental and
other required project reviews.

(2) INCLUSIONS.—Programmatic agreements
authorized under paragraph (1) may include agree-
ments that allow a State to determine on behalf of
the Federal Highway Administration whether a
project is categorically excluded from the prepara-
tion of an environmental assessment or environ-
mental impact statement under the National Envi-

(3) Determinations.—An agreement described in paragraph (2) may include determinations by the Secretary of the types of projects categorically excluded (consistent with section 1508.4 of title 40, Code of Federal Regulations) in the State in addition to the types listed in subsections (c) and (d) of section 771.117 of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act).

SEC. 1311. ACCELERATED DECISIONMAKING IN ENVIRONMENTAL REVIEWS.

(a) In General.—When preparing a final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if the lead agency makes changes in response to comments that are minor and are confined to factual corrections or explanations of why the comments do not warrant further agency response, the lead agency may write on errata sheets attached to the statement instead of rewriting the draft statement, on the condition that the errata sheets—

(1) cite the sources, authorities, or reasons that support the position of the agency; and
(2) if appropriate, indicate the circumstances that would trigger agency reappraisal or further re-
response.

(b) INCORPORATION.—To the maximum extent prac-
ticable, the lead agency shall expeditiously develop a single document that consists of a final environmental impact statement and a record of decision unless—

(1) the final environmental impact statement makes substantial changes to the proposed action that are relevant to environmental or safety con-
cerns; or

(2) there are significant new circumstances or information relevant to environmental concerns and that bear on the proposed action or the impacts of the proposed action.

SEC. 1312. MEMORANDA OF AGENCY AGREEMENTS FOR EARLY COORDINATION.

(a) IN GENERAL.—It is the sense of Congress that—

(1) the Secretary and other Federal agencies with relevant jurisdiction in the environmental re-
view process should cooperate with each other and other agencies on environmental review and project delivery activities at the earliest practicable time to avoid delays and duplication of effort later in the process, head off potential conflicts, and ensure that
planning and project development decisions reflect environmental values; and

(2) such cooperation should include the development of policies and the designation of staff that advise planning agencies or project sponsors of studies or other information foreseeably required for later Federal action and early consultation with appropriate State and local agencies and Indian tribes.

(b) Technical Assistance.—If requested at any time by a State or local planning agency, the Secretary and other Federal agencies with relevant jurisdiction in the environmental review process, shall, to the extent practicable and appropriate, as determined by the agencies, provide technical assistance to the State or local planning agency on accomplishing the early coordination activities described in subsection (d).

(c) Memorandum of Agency Agreement.—If requested at any time by a State or local planning agency, the lead agency, in consultation with other Federal agencies with relevant jurisdiction in the environmental review process, may establish memoranda of agreement with the project sponsor, State, and local governments and other appropriate entities to accomplish the early coordination activities described in subsection (d).
(d) EARLY COORDINATION ACTIVITIES.—Early coordination activities shall include, to the maximum extent practicable, the following:

(1) Technical assistance on identifying potential impacts and mitigation issues in an integrated fashion.

(2) The potential appropriateness of using planning products and decisions in later environmental reviews.

(3) The identification and elimination from detailed study in the environmental review process of the issues that are not significant or that have been covered by prior environmental reviews.

(4) The identification of other environmental review and consultation requirements so that the lead and cooperating agencies may prepare, as appropriate, other required analyses and studies concurrently with planning activities.

(5) The identification by agencies with jurisdiction over any permits related to the project of any and all relevant information that will reasonably be required for the project.

(6) The reduction of duplication between requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and State and
local planning and environmental review requirements, unless the agencies are specifically barred from doing so by applicable law.

(7) Timelines for the completion of agency actions during the planning and environmental review processes.

(8) Other appropriate factors.

**SEC. 1313. ACCELERATED DECISIONMAKING.**

Section 139(h) of title 23, United States Code, is amended by striking paragraph (4) and inserting the following:

“(4) INTERIM DECISION ON ACHIEVING ACCELERATED DECISIONMAKING.—

“(A) IN GENERAL.—Not later than 30 days after the close of the public comment period on a draft environmental impact statement, the Secretary may convene a meeting with the project sponsor, lead agency, resource agencies, and any relevant State agencies to ensure that all parties are on schedule to meet deadlines for decisions to be made regarding the project.

“(B) DEADLINES.—The deadlines referred to in subparagraph (A) shall be those established under subsection (g), or any other deadlines established by the lead agency, in con-
sultation with the project sponsor and other rele-

vant agencies.

“(C) FAILURE TO ASSURE.—If the rele-
vant agencies cannot provide reasonable assur-
ances that the deadlines described in subpara-
graph (B) will be met, the Secretary may ini-
tiate the issue resolution and referral process
described under paragraph (5) and before the
completion of the record of decision.

“(5) ACCELERATED ISSUE RESOLUTION AND

REFERRAL.—

“(A) AGENCY ISSUE RESOLUTION MEET-

ING.—

“(i) IN GENERAL.—A Federal agency
of jurisdiction, project sponsor, or the Gov-
ernor of a State in which a project is lo-
cated may request an issue resolution
meeting to be conducted by the lead agen-
cy.

“(ii) ACTION BY LEAD AGENCY.—The
lead agency shall convene an issue resolu-
tion meeting under clause (i) with the rel-
evant participating agencies and the
project sponsor, including the Governor
only if the meeting was requested by the Governor, to resolve issues that could—

“(I) delay completion of the environmental review process; or

“(II) result in denial of any approvals required for the project under applicable laws.

“(iii) DATE.—A meeting requested under this subparagraph shall be held by not later than 21 days after the date of receipt of the request for the meeting, unless the lead agency determines that there is good cause to extend the time for the meeting.

“(iv) NOTIFICATION.—On receipt of a request for a meeting under this subparagraph, the lead agency shall notify all relevant participating agencies of the request, including the issue to be resolved, and the date for the meeting.

“(v) DISPUTES.—If a relevant participating agency with jurisdiction over an approval required for a project under applicable law determines that the relevant information necessary to resolve the issue has
not been obtained and could not have been obtained within a reasonable time, but the lead agency disagrees, the resolution of the dispute shall be forwarded to the heads of the relevant agencies for resolution.

“(vi) Convention by lead agency.—A lead agency may convene an issue resolution meeting under this subsection at any time without the request of the Federal agency of jurisdiction, project sponsor, or the Governor of a State.

“(B) Elevation of issue resolution.—

“(i) In general.—If issue resolution is not achieved by not later than 30 days after the date of a relevant meeting under subparagraph (A), the Secretary shall notify the lead agency, the heads of the relevant participating agencies, and the project sponsor (including the Governor only if the initial issue resolution meeting request came from the Governor) that an issue resolution meeting will be convened.

“(ii) Requirements.—The Secretary shall identify the issues to be addressed at
the meeting and convene the meeting not later than 30 days after the date of issuance of the notice.

“(C) Referral of issue resolution.—

“(i) Referral to Council on Environmental Quality.—

“(I) In general.—If resolution is not achieved by not later than 30 days after the date of an issue resolution meeting under subparagraph (B), the Secretary shall refer the matter to the Council on Environmental Quality.

“(II) Meeting.—Not later than 30 days after the date of receipt of a referral from the Secretary under subclause (I), the Council on Environmental Quality shall hold an issue resolution meeting with the lead agency, the heads of relevant participating agencies, and the project sponsor (including the Governor only if an initial request for an issue resolution meeting came from the Governor).
“(ii) Referral to the President.—If a resolution is not achieved by not later than 30 days after the date of the meeting convened by the Council on Environmental Quality under clause (i)(II), the Secretary shall refer the matter directly to the President.

“(6) Financial Transfer Provisions.—

“(A) In general.—A Federal agency of jurisdiction over an approval required for a project under applicable laws shall complete any required approval on an expeditious basis using the shortest existing applicable process.

“(B) Failure to Decide.—

“(i) In general.—If an agency described in subparagraph (A) fails to render a decision under any Federal law relating to a project that requires the preparation of an environmental impact statement or environmental assessment, including the issuance or denial of a permit, license, or other approval by the date described in clause (ii), the agency shall transfer from the applicable office of the head of the agency, or equivalent office to which the
authority for rendering the decision has been delegated by law, to the agency or division charged with rendering a decision regarding the application, by not later than 1 day after the applicable date under clause (ii), and once each week thereafter until a final decision is rendered, subject to subparagraph (C)—

“(I) $20,000 for any project for which an annual financial plan under section 106(i) is required; or

“(II) $10,000 for any other project requiring preparation of an environmental assessment or environmental impact statement.

“(ii) DESCRIPTION OF DATE.—The date referred to in clause (i) is the later of—

“(I) the date that is 180 days after the date on which an application for the permit, license, or approval is complete; and

“(II) the date that is 180 days after the date on which the Federal lead agency issues a decision on the
project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(C) LIMITATIONS.—

“(i) IN GENERAL.—No transfer of funds under subparagraph (B) relating to an individual project shall exceed, in any fiscal year, an amount equal to 1 percent of the funds made available for the applicable agency office.

“(ii) FAILURE TO DECIDE.—The total amount transferred in a fiscal year as a result of a failure by an agency to make a decision by an applicable deadline shall not exceed an amount equal to 5 percent of the funds made available for the applicable agency office for that fiscal year.

“(D) TREATMENT.—The transferred funds shall only be available to the agency or division charged with rendering the decision as additional resources, pursuant to subparagraph (F).

“(E) NO FAULT OF AGENCY.—A transfer of funds under this paragraph shall not be made if the agency responsible for rendering the decision certifies that—
“(i) the agency has not received necessary information or approvals from another entity, such as the project sponsor, in a manner that affects the ability of the agency to meet any requirements under State, local, or Federal law; or

“(ii) significant new information or circumstances, including a major modification to an aspect of the project, requires additional analysis for the agency to make a decision on the project application.

“(F) TREATMENT OF FUNDS.—

“(i) IN GENERAL.—Funds transferred under this paragraph shall supplement resources available to the agency or division charged with making a decision for the purpose of expediting permit reviews.

“(ii) AVAILABILITY.—Funds transferred under this paragraph shall be available for use or obligation for the same period that the funds were originally authorized or appropriated, plus 1 additional fiscal year.

“(iii) LIMITATION.—The Federal agency with jurisdiction for the decision
that has transferred the funds pursuant to this paragraph shall not reprogram funds to the office of the head of the agency, or equivalent office, to reimburse that office for the loss of the funds.

“(G) Audits.—In any fiscal year in which any Federal agency transfers funds pursuant to this paragraph, the Inspector General of that agency shall—

“(i) conduct an audit to assess compliance with the requirements of this paragraph; and

“(ii) not later than 120 days after the end of the fiscal year during which the transfer occurred, submit to the Committee on Environment and Public Works of the Senate and any other appropriate congressional committees a report describing the reasons why the transfers were levied, including allocations of resources.

“(H) Effect of Paragraph.—Nothing in this paragraph affects or limits the application of, or obligation to comply with, any Federal, State, local, or tribal law.
“(I) Authority for intra-agency transfer of funds.—The requirement provided under this paragraph for a Federal agency to transfer or reallocate funds of the Federal agency in accordance with subparagraph (B)(i)—

“(i) shall be treated by the Federal agency as a requirement and authority consistent with any applicable original law establishing and authorizing the agency; but

“(ii) does not provide to the Federal agency the authority to require or determine the intra-agency transfer or reallocation of funds that are provided to or are within any other Federal agency.

“(7) Expedient decisions and reviews.—To ensure that Federal environmental decisions and reviews are expeditiously made—

“(A) adequate resources made available under this title shall be devoted to ensuring that applicable environmental reviews under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are completed on an expeditious basis and that the shortest existing ap-
and

“(B) the President shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, not less frequently than once every 120 days after the date of enactment of the MAP–21, a report on the status and progress of the following projects and activities funded under this title with respect to compliance with applicable requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.):

“(i) Projects and activities required to prepare an annual financial plan under section 106(i).

“(ii) A sample of not less than 5 percent of the projects requiring preparation of an environmental impact statement or environmental assessment in each State.”.

SEC. 1314. ENVIRONMENTAL PROCEDURES INITIATIVE.

(a) ESTABLISHMENT.—For grant programs under which funds are distributed by formula by the Department of Transportation, the Secretary shall establish an initia-
tive to review and develop consistent procedures for envi-
ronmental permitting and procurement requirements.

(b) REPORT.—The Secretary shall publish the results
of the initiative described in subsection (a) in an electroni-
cally accessible format.

SEC. 1315. ALTERNATIVE RELOCATION PAYMENT DEM-
ONSTRATION PROGRAM.

(a) PAYMENT DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—Except as otherwise pro-
vided in this section, for the purpose of identifying
improvements in the timeliness of providing reloca-
tion assistance to persons displaced by Federal or
federally assisted programs and projects, the Sec-
retary may allow not more than 5 States to partici-
pate in an alternative relocation payment demonstra-
tion program under which payments to displaced
persons eligible for relocation assistance pursuant to
the Uniform Relocation Assistance and Real Prop-
erty Acquisition Policies Act of 1970 (42 U.S.C.
4601 et seq.) (including implementing regulations),
are calculated based on reasonable estimates and
paid in advance of the physical displacement of the
displaced person.

(2) TIMING OF PAYMENTS.—Relocation assist-
ance payments for projects carried out under an ap-
proved State demonstration program may be pro-
vided to the displaced person at the same time as
payments of just compensation for real property ac-
quired for the program or project of the State.

(3) **COMBINING OF PAYMENTS.**—Payments for
relocation and just compensation may be combined
into a single unallocated amount.

(b) **CRITERIA.**—

(1) **IN GENERAL.**—After public notice and an
opportunity to comment, the Secretary shall adopt
criteria for carrying out the alternative relocation
payment demonstration program.

(2) **CONDITIONS.**—

(A) **IN GENERAL.**—Conditions for State
participation in the demonstration program
shall include the conditions described in sub-
paragraphs (B) through (E).

(B) **MEMORANDUM OF AGREEMENT.**—A
State wishing to participate in the demonstra-
tion program shall be required to enter into a
memorandum of agreement with the Secretary
that includes provisions relating to—

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

(ii) program and project-level monitoring;

(iii) performance measurement;

(iv) reporting; and

(v) the circumstances under which the Secretary may terminate the demonstration program of the State before the end of the program term.

(C) TERM OF DEMONSTRATION PROGRAM.—Except as provided in subparagraph (B)(v), the demonstration program of the State may continue for up to 3 years after the date on which the Secretary executes the memorandum of agreement.

(D) DISPLACED PERSONS.—

(i) IN GENERAL.—Displaced persons affected by a project included in the demonstration program of the State shall be informed in writing in a format that is clear and easily understandable that the relocation payments that the displaced persons receive under the demonstration program may be higher or lower than the
amount that the displaced persons would
receive under the standard relocation as-
stance process.

(ii) ALTERNATIVE PROCESS.—Dis-
placed persons shall be informed—

(I) of the right of the displaced
persons not to participate in the dem-
onstration program; and

(II) that the alternative reloca-
tion payment process can be used only
if the displaced person agrees in writ-
ing.

(iii) ASSISTANCE.—The displacing
agency shall provide any displaced person
who elects not to participate in the dem-
onstration program with relocation assis-
tance in accordance with the Uniform Relo-
cation Assistance and Real Property Ac-
quisation Policies Act of 1970 (42 U.S.C.
4601 et seq.) (including implementing reg-
ulations).

(E) OTHER DISPLACEMENTS.—

(i) IN GENERAL.—If other Federal
agencies plan displacements in or adjacent
to a demonstration program project area
within the same time period as the project
acquisition and relocation actions of the
demonstration program, the Secretary
shall adopt measures to protect against in-
consistent treatment of displaced persons.

(ii) INCLUSION.—Measures described
in clause (i) may include a determination
that the demonstration program authority
may not be used on a particular project.

(c) REPORT.—

(1) IN GENERAL.—The Secretary shall submit
to Congress—

(A) at least every 18 months after the date
of enactment of this Act, a report on the
progress and results of the demonstration pro-
gram; and

(B) not later than 1 year after all State
demonstration programs have ended, a final re-
port.

(2) REQUIREMENTS.—The final report shall in-
clude an evaluation by the Secretary of the merits
of the alternative relocation payment demonstration
program, including the effects of the demonstration
program on—
(A) displaced persons and the protections afforded to displaced persons by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.);

(B) the efficiency of the delivery of Federal-aid highway projects and overall effects on the Federal-aid highway program; and

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

(d) LIMITATION.—The authority of this section may be used only on projects funded under title 23, United States Code, in cases in which the funds are administered by the Federal Highway Administration.

(e) AUTHORITY.—The authority of the Secretary to approve an alternate relocation payment demonstration program for a State terminates on the date that is 3 years after the date of enactment of this Act.

SEC. 1316. REVIEW OF FEDERAL PROJECT AND PROGRAM DELIVERY.

(a) COMPLETION TIME ASSESSMENTS AND REPORTS.—
(1) IN GENERAL.—For projects funded under title 23, United States Code, the Secretary shall compare—

(A)(i) the completion times of categorical exclusions, environmental assessments, and environmental impact statements initiated after calendar year 2005; to

(ii) the completion times of categorical exclusions, environmental assessments, and environmental impact statements initiated during a period prior to calendar year 2005; and

(B)(i) the completion times of categorical exclusions, environmental assessments, and environmental impact statements initiated during the period beginning on January 1, 2005, and ending on the date of enactment of this Act; to

(ii) the completion times of categorical exclusions, environmental assessments, and environmental impact statements initiated after the date of enactment of this Act.

(2) REPORT.—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report—
(A) not later than 1 year after the date of enactment of this Act that—

(i) describes the results of the review conducted under paragraph (1)(A); and

(ii) identifies any change in the timing for completions, including the reasons for any such change and the reasons for delays in excess of 5 years; and

(B) not later than 5 years after the date of enactment of this Act that—

(i) describes the results of the review conducted under paragraph (1)(B); and

(ii) identifies any change in the timing for completions, including the reasons for any such change and the reasons for delays in excess of 5 years.

(b) ADDITIONAL REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the types and justification for the additional categorical exclusions granted under the authority provided under sections 1309 and 1310.
(c) GAO REPORT.—The Comptroller General of the United States shall—

(1) assess the reforms carried out under sections 1301 through 1315 (including the amendments made by those sections); and

(2) not later than 5 years after the date of enactment of this Act, submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes the results of the assessment.

(d) INSPECTOR GENERAL REPORT.—The Inspector General of the Department of Transportation shall—

(1) assess the reforms carried out under sections 1301 through 1315 (including the amendments made by those sections); and

(2) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate—

(A) not later than 2 years after the date of enactment of this Act, an initial report of the findings of the Inspector General; and
(B) not later than 4 years after the date of enactment of this Act, a final report of the findings.

**Subtitle D—Highway Safety**

**SEC. 1401. JASON'S LAW.**

(a) In General.—It is the sense of Congress that it is a national priority to address projects under this section for the shortage of long-term parking for commercial motor vehicles on the National Highway System to improve the safety of motorized and nonmotorized users and for commercial motor vehicle operators.

(b) Eligible Projects.—Eligible projects under this section are those that—

(1) serve the National Highway System; and

(2) may include the following:

(A) Constructing safety rest areas (as defined in section 120(c) of title 23, United States Code) that include parking for commercial motor vehicles.

(B) Constructing commercial motor vehicle parking facilities adjacent to commercial truck stops and travel plazas.

(C) Opening existing facilities to commercial motor vehicle parking, including inspection and weigh stations and park-and-ride facilities.
(D) Promoting the availability of publicly or privately provided commercial motor vehicle parking on the National Highway System using intelligent transportation systems and other means.

(E) Constructing turnouts along the National Highway System for commercial motor vehicles.

(F) Making capital improvements to public commercial motor vehicle parking facilities currently closed on a seasonal basis to allow the facilities to remain open year-round.

(G) Improving the geometric design of interchanges on the National Highway System to improve access to commercial motor vehicle parking facilities.

(c) SURVEY AND COMPARATIVE ASSESSMENT.—

(1) IN GENERAL.—The Secretary, in consultation with relevant State motor carrier safety personnel, shall conduct a survey regarding the availability of parking facilities within each State—

(A) to evaluate the capability of the State to provide adequate parking and rest facilities for motor carriers engaged in interstate motor carrier service;
(B) to assess the volume of motor carrier
traffic through the State; and

(C) to develop a system of metrics to
measure the adequacy of parking facilities in
the State.

(2) RESULTS.—The results of the survey under
paragraph (1) shall be made available to the public
on the website of the Department of Transportation.

(3) PERIODIC UPDATES.—The Secretary shall
periodically update the survey under this subsection.

(d) TREATMENT OF PROJECTS.—Notwithstanding
any other provision of law, projects funded through the
authority provided under this section shall be treated as
projects on a Federal-aid system under chapter 1 of title
23, United States Code.

SEC. 1402. OPEN CONTAINER REQUIREMENTS.

Section 154(c) of title 23, United States Code, is
amended—

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

“(2) FISCAL YEAR 2012 AND THEREAFTER.—

“(A) RESERVATION OF FUNDS.—On Octo-
ber 1, 2011, and each October 1 thereafter, if
a State has not enacted or is not enforcing an
open container law described in subsection (b),
the Secretary shall reserve an amount equal to 2.5 percent of the funds to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b) until the State certifies to the Secretary the means by which the State will use those reserved funds in accordance with subparagraphs (A) and (B) of paragraph (1) and paragraph (3).

“(B) TRANSFER OF FUNDS.—As soon as practicable after the date of receipt of a certification from a State under subparagraph (A), the Secretary shall—

“(i) transfer the reserved funds identified by the State for use as described in subparagraphs (A) and (B) of paragraph (1) to the apportionment of the State under section 402; and

“(ii) release the reserved funds identified by the State as described in paragraph (3).”;

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

“(3) USE FOR HIGHWAY SAFETY IMPROVEMENT PROGRAM.—
“(A) IN GENERAL.—A State may elect to use all or a portion of the funds transferred under paragraph (2) for activities eligible under section 148.

“(B) STATE DEPARTMENTS OF TRANSPORTATION.—If the State makes an election under subparagraph (A), the funds shall be transferred to the department of transportation of the State, which shall be responsible for the administration of the funds.”; and

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

“(5) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred under paragraph (2) may be derived from the following:

“(A) The apportionment of the State under section 104(b)(1).

“(B) The apportionment of the State under section 104(b)(2).”.

SEC. 1403. MINIMUM PENALTIES FOR REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.

(a) DEFINITIONS.—Section 164(a) of title 23, United States Code, is amended—

(1) by striking paragraph (3);
(2) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; and

(3) in paragraph (4) (as so redesignated) by striking subparagraph (A) and inserting the following:

“(A) receive—

“(i) a suspension of all driving privileges for not less than 1 year; or

“(ii) a suspension of unlimited driving privileges for 1 year, allowing for the reinstatement of limited driving privileges subject to restrictions and limited exemptions as established by State law, if an ignition interlock device is installed for not less than 1 year on each of the motor vehicles owned or operated, or both, by the individual;”.

(b) TRANSFER OF FUNDS.—Section 164(b) of title 23, United States Code, is amended—

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

“(2) FISCAL YEAR 2012 AND THEREAFTER.—

“(A) RESERVATION OF FUNDS.—On October 1, 2011, and each October 1 thereafter, if a State has not enacted or is not enforcing a
repeat intoxicated driver law, the Secretary shall reserve an amount equal to 6 percent of the funds to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b) until the State certifies to the Secretary the means by which the States will use those reserved funds among the uses authorized under subparagraphs (A) and (B) of paragraph (1), and paragraph (3).

“(B) TRANSFER OF FUNDS.—As soon as practicable after the date of receipt of a certification from a State under subparagraph (A), the Secretary shall—

“(i) transfer the reserved funds identified by the State for use as described in subparagraphs (A) and (B) of paragraph (1) to the apportionment of the State under section 402; and

“(ii) release the reserved funds identified by the State as described in paragraph (3).”;

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

“(3) USE FOR HIGHWAY SAFETY IMPROVEMENT PROGRAM.—
“(A) IN GENERAL.—A State may elect to use all or a portion of the funds transferred under paragraph (2) for activities eligible under section 148.

“(B) STATE DEPARTMENTS OF TRANSPORTATION.—If the State makes an election under subparagraph (A), the funds shall be transferred to the department of transportation of the State, which shall be responsible for the administration of the funds.”; and

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

“(5) DERIVATION OF AMOUNT TO BE TRANSFERRED.—The amount to be transferred under paragraph (2) may be derived from the following:

“(A) The apportionment of the State under section 104(b)(1).

“(B) The apportionment of the State under section 104(b)(2).”.

SEC. 1404. ADJUSTMENTS TO PENALTY PROVISIONS.

(a) VEHICLE WEIGHT LIMITATIONS.—Section 127(a)(1) of title 23, United States Code, is amended by striking “No funds shall be apportioned in any fiscal year under section 104(b)(1) of this title to any State which” and inserting “The Secretary shall withhold 50 percent
of the apportionment of a State under section 104(b)(1) in any fiscal year in which the State”.

(b) CONTROL OF JUNKYARDS.—Section 136 of title 23, United States Code, is amended—

(1) in subsection (b), in the first sentence—

(A) by striking “10 per centum” and inserting “7 percent”; and

(B) by striking “section 104 of this title” and inserting “paragraphs (1) through (5) of section 104(b)”;

(2) by adding at the end the following:

“(n) For purposes of this section, the terms ‘primary system’ and ‘Federal-aid primary system’ mean any highway that is on the National Highway System, which includes the Interstate Highway System.”.

(e) ENFORCEMENT OF VEHICLE SIZE AND WEIGHT LAWS.—Section 141(b)(2) of title 23, United States Code, is amended—

(1) by striking “10 per centum” and inserting “7 percent”; and

(2) by striking “section 104 of this title” and inserting “paragraphs (1) through (5) of section 104(b)”.
(d) Proof of Payment of the Heavy Vehicle Use Tax.—Section 141(e) of title 23, United States Code, is amended—

(1) by striking “section 104(b)(4)” each place it appears and inserting “section 104(b)(1)”; and

(2) in the first sentence by striking “25 per centum” and inserting “8 percent”.

(e) Use of Safety Belts.—Section 153(h) of title 23, United States Code, is amended—

(1) by striking paragraph (1);

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

(3) in paragraph (1) (as so redesignated)—

(A) by striking the paragraph heading and inserting “PRIOR TO FISCAL YEAR 2012”; and

(B) by inserting “and before October 1, 2011,” after “September 30, 1994,”; and

(4) by inserting after paragraph (1) (as so redesignated) the following:

“(2) Fiscal Year 2012 and Thereafter.—If, at any time in a fiscal year beginning after September 30, 2011, a State does not have in effect a law described in subsection (a)(2), the Secretary shall transfer an amount equal to 2 percent of the funds apportioned to the State for the succeeding
fiscal year under each of paragraphs (1) through (3) of section 104(b) to the apportionment of the State under section 402.”.

(f) National Minimum Drinking Age.—Section 158(a)(1) of title 23, United States Code, is amended—

(1) by striking “The Secretary” and inserting the following:

“(A) Fiscal years before 2012.—The Secretary”; and

(2) by adding at the end the following:

“(B) Fiscal year 2012 and thereafter.—For fiscal year 2012 and each fiscal year thereafter, the amount to be withheld under this section shall be an amount equal to 8 percent of the amount apportioned to the noncompliant State, as described in subparagraph (A), under paragraphs (1) and (2) of section 104(b).”.

(g) Drug Offenders.—Section 159 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (1);

(B) by redesignating paragraph (2) as paragraph (1);
(C) in paragraph (1) (as so redesignated)
by striking “(including any amounts withheld
under paragraph (1))”; and
(D) by inserting after paragraph (1) (as so
redesignated) the following:
“(2) Fiscal year 2012 and thereafter.—
The Secretary shall withhold an amount equal to 8
percent of the amount required to be apportioned to
any State under each of paragraphs (1) and (2) of
section 104(b) on the first day of each fiscal year
beginning after September 30, 2011, if the State
fails to meet the requirements of paragraph (3) on
the first day of the fiscal year.”; and
(2) by striking subsection (b) and inserting the
following:
“(b) Effect of Noncompliance.—No funds with-
held under this section from apportionments to any State
shall be available for apportionment to that State.”.
(h) Zero Tolerance Blood Alcohol Con-
centration for Minors.—Section 161(a) of title 23,
United States Code, is amended—
(1) by striking paragraph (1);
(2) by redesignating paragraph (2) as para-
graph (1);
(3) in paragraph (1) (as so redesignated)—
(A) by striking the paragraph heading and inserting “PRIOR TO FISCAL YEAR 2012”; and

(B) by inserting “through fiscal year 2011” after “each fiscal year thereafter”; and

(4) by inserting after paragraph (1) (as so redesignated) the following:

“(2) Fiscal Year 2012 and Thereafter.—The Secretary shall withhold an amount equal to 8 percent of the amount required to be apportioned to any State under each of paragraphs (1) and (2) of section 104(b) on October 1, 2011, and on October 1 of each fiscal year thereafter, if the State does not meet the requirement of paragraph (3) on that date.”.

(i) Operation of Motor Vehicles by Intoxicated Persons.—Section 163(e) of title 23, United States Code, is amended by striking paragraphs (1) and (2) and inserting the following:

“(1) Fiscal Years 2007 Through 2011.—On October 1, 2006, and October 1 of each fiscal year thereafter through fiscal year 2011, if a State has not enacted or is not enforcing a law described in subsection (a), the Secretary shall withhold an amount equal to 8 percent of the amounts to be ap-
portioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b).

“(2) Fiscal Year 2012 and Thereafter.—On October 1, 2011, and October 1 of each fiscal year thereafter, if a State has not enacted or is not enforcing a law described in subsection (a), the Secretary shall withhold an amount equal to 6 percent of the amounts to be apportioned to the State on that date under each of paragraphs (1) and (2) of section 104(b).”.

(j) Commercial Driver’s License.—Section 31314 of title 49, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

“(c) Penalties Imposed in Fiscal Year 2012 and Thereafter.—Effective beginning on October 1, 2011—

“(1) the penalty for the first instance of non-compliance by a State under this section shall be not more than an amount equal to 4 percent of funds required to be apportioned to the noncompliant State under paragraphs (1) and (2) of section 104(b) of title 23; and
“(2) the penalty for subsequent instances of
noncompliance shall be not more than an amount
equal to 8 percent of funds required to be appor-
tioned to the noncompliant State under paragraphs
(1) and (2) of section 104(b) of title 23.”.

SEC. 1405. HIGHWAY WORKER SAFETY.

(a) Positive Protective Devices.—Not later than
60 days after the date of enactment of this Act, the Sec-
etary shall modify section 630.1108(a) of title 23, Code
of Federal Regulations (as in effect on the date of enact-
ment of this Act), to ensure that—

(1) at a minimum, positive protective measures
are used to separate workers on highway construc-
tion projects from motorized traffic in all work zones
conducted under traffic in areas that offer workers
no means of escape (such as tunnels and bridges),
unless an engineering study determines otherwise;

(2) temporary longitudinal traffic barriers are
used to protect workers on highway construction
projects in long-duration stationary work zones when
the project design speed is anticipated to be high
and the nature of the work requires workers to be
within 1 lane-width from the edge of a live travel
lane, unless—
(A) an analysis by the project sponsor determines otherwise; or

(B) the project is outside of an urbanized area and the annual average daily traffic load of the applicable road is less than 100 vehicles per hour; and

(3) when positive protective devices are necessary for highway construction projects, those devices are paid for on a unit-pay basis, unless doing so would create a conflict with innovative contracting approaches, such as design-build or some performance-based contracts under which the contractor is paid to assume a certain risk allocation and payment is generally made on a lump-sum basis.

(b) TURNOUT GEAR.—Notwithstanding sections 6D.03 and 6E.02 of the Manual on Uniform Traffic Control Devices dated 2009 (as in effect on the date of enactment of this Act), any firefighter engaged in any type of operation while working within the right-of-way of a Federal-aid highway may optionally wear for compliance retroreflective turnout gear that is specified and regulated by other organizations, such as the gear specified in National Fire Protection Association standards 1971 through 2007 (as in effect on that date of enactment), in lieu of
apparel meeting the requirements under ANSI/ISEA 107–2004 or ANSI/ISEA 207–2006 (as in effect on that date).

Subtitle E—Miscellaneous

SEC. 1501. PROGRAM EFFICIENCIES.

The first sentence of section 102(b) of title 23, United States Code, is amended by striking “made available for such engineering” and inserting “reimbursed for the preliminary engineering”.

SEC. 1502. PROJECT APPROVAL AND OVERSIGHT.

Section 106 of title 23, United States Code, is amended—

(1) in subsection (a)(2) by inserting “recipient” before “formalizing”;

(2) in subsection (c)—

(A) in paragraph (1)—

(i) in the heading, by striking “NON-INTERSTATE”; and

(ii) by striking “but not on the Interstate System”; and

(B) by striking paragraph (4) and inserting the following:

“(4) LIMITATION ON INTERSTATE PROJECTS.—

“(A) IN GENERAL.—The Secretary shall not assign any responsibilities to a State for projects the Secretary determines to be in a
high risk category, as defined under subparagraph (B).

“(B) HIGH RISK CATEGORIES.—The Secretary may define the high risk categories under this subparagraph on a national basis, a State-by-State basis, or a national and State-by-State basis, as determined to be appropriate by the Secretary.”;

(3) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (A)—

(I) in the matter preceding clause (i)—

(aa) by striking “concept” and inserting “planning”; and

(bb) by striking “multidisciplined” and inserting “multi-disciplinary”; and

(II) by striking clause (i) and inserting the following:

“(i) providing the needed functions and achieving the established commitments (including environmental, community, and agency commitments) safely, reliably, and at the lowest overall lifecycle cost;”; and
(ii) in subparagraph (B) by striking clause (ii) and inserting the following:

“(ii) refining or redesigning, as appropriate, the project using different technologies, materials, or methods so as to accomplish the purpose, functions, and established commitments (including environmental, community, and agency commitments) of the project.”;

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A) by striking “or other cost-reduction analysis”;

(ii) in subparagraph (A) by striking “Federal-aid system” and inserting “National Highway System receiving Federal assistance”; and

(iii) in subparagraph (B) by inserting “on the National Highway System receiving Federal assistance” after “a bridge project”; and

(C) by striking paragraph (4) and inserting the following:

“(4) REQUIREMENTS.—
“(A) Value engineering program.—

The State shall develop and carry out a value engineering program that—

“(i) establishes and documents value engineering program policies and procedures;

“(ii) ensures that the required value engineering analysis is conducted before completing the final design of a project;

“(iii) ensures that the value engineering analysis that is conducted, and the recommendations developed and implemented for each project, are documented in a final value engineering report; and

“(iv) monitors, evaluates, and annually submits to the Secretary a report that describes the results of the value analyses that are conducted and the recommendations implemented for each of the projects described in paragraph (2) that are completed in the State.

“(B) Bridge projects.—The value engineering analysis for a bridge project under paragraph (2) shall—
“(i) include bridge superstructure and substructure requirements based on construction material; and

“(ii) be evaluated by the State—

“(I) on engineering and economic bases, taking into consideration acceptable designs for bridges; and

“(II) using an analysis of lifecycle costs and duration of project construction.”;

(4) in subsection (g)(4) by adding at the end the following:

“(C) FUNDING.—

“(i) IN GENERAL.—Subject to project approval by the Secretary, a State may obligate funds apportioned to the State under section 104(b)(2) for carrying out the responsibilities of the State under subparagraph (A).

“(ii) ELIGIBLE ACTIVITIES.—Activities eligible for assistance under this subparagraph include—

“(I) State administration of subgrants; and
“(II) State oversight of subrecipients.

“(iii) **Annual Work Plan.**—To receive the funding flexibility made available under this subparagraph, the State shall submit to the Secretary an annual work plan identifying activities to be carried out under this subparagraph during the applicable year.

“(iv) **Federal Share.**—The Federal share of the cost of activities carried out under this subparagraph shall be 100 percent.”; and

(5) in subsection (h)—

(A) in paragraph (1)(B) by inserting “, including a phasing plan when applicable” after “financial plan”; and

(B) by striking paragraph (3) and inserting the following:

“(3) **Financial Plan.**—A financial plan—

“(A) shall be based on detailed estimates of the cost to complete the project;

“(B) shall provide for the annual submission of updates to the Secretary that are based on reasonable assumptions, as determined by
the Secretary, of future increases in the cost to complete the project; and

“(C) may include a phasing plan that identifies fundable incremental improvements or phases that will address the purpose and the need of the project in the short term in the event there are insufficient financial resources to complete the entire project. If a phasing plan is adopted for a project pursuant to this section, the project shall be deemed to satisfy the fiscal constraint requirements in the statewide and metropolitan planning requirements in sections 134 and 135.”.

SEC. 1503. STANDARDS.

(a) PRACTICAL DESIGN.—Section 109 of title 23, United States Code, is amended—

(1) in subsection (a)—

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

(B) in paragraph (2) by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(3) utilize, when appropriate, practical design solutions, as defined in this section, to ensure that transportation needs are met and that funds avail-
able for transportation projects are used effi-
ciently.”;

(2) in subsection (c)—

(A) in paragraph (1), in the matter pre-
ceeding subparagraph (A)—

(i) by striking “, reconstruction, re-
surfacing (except for maintenance resur-
facing), restoration, or rehabilitation” and
inserting “or reconstruction”; and

(ii) by striking “may take into ac-
count” and inserting “shall consider”;  

(B) in paragraph (2)—

(i) in the first sentence of the matter
preceding subparagraph (A) by striking
“may” and inserting “shall”;

(ii) in subparagraph (C) by striking
“and” at the end;

(iii) by redesignating subparagraph
(D) as subparagraph (F); and

(iv) by inserting after subparagraph
(C) the following:

“(D) the publication entitled ‘Highway
Safety Manual’ of the American Association of
State Highway and Transportation Officials;
“(E) the publication entitled ‘A Guide for Achieving Flexibility in Highway Design, 1st Edition’, published by the American Association of State Highway and Transportation Officials; and”;

(3) in subsection (f) by inserting “pedestrian walkways,” after “bikeways,”;

(4) in subsection (m) by inserting “, safe, and continuous” after “for a reasonable”;

(5) in subsection (q) by striking “consistent with the operative safety management system established in accordance with section 303 or in accordance with” inserting “that is in accordance with a State’s strategic highway safety plan and included on”; and

(6) by adding at the end the following:

“(r) DEFINITION.—In this section, the term ‘practical design solution’ means a collaborative interdisciplinary approach that results in a transportation project that fits its physical setting, preserves safety, and balances costs with the necessary scope and project delivery needs of the project, as well as with scenic, aesthetic, historic, and environmental resources.”.
(b) ADDITIONAL STANDARDS.—Section 109 of title 23, United States Code (as amended by subsection (a)(6)), is amended by adding at the end the following:

“(s) PAVEMENT MARKINGS.—The Secretary shall not approve any pavement markings project that includes the use of glass beads containing more than 200 parts per million of arsenic or lead, as determined in accordance with Environmental Protection Agency testing methods 3052, 6010B, or 6010C.”.

SEC. 1504. CONSTRUCTION.

Section 114 of title 23, United States Code, is amended—

(1) in subsection (b)—

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

“(1) LIMITATION ON CONVICT LABOR.—Convict labor shall not be used in construction of Federal-aid highways or portions of Federal-aid highways unless the labor is performed by convicts who are on parole, supervised release, or probation.”; and

(B) in paragraph (3) by inserting “in existence during that period” after “located on a Federal-aid system”; and

(2) in subsection (c)—
(A) by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—The Secretary shall ensure that a worker who is employed on a remote project for the construction of a Federal-aid highway or portion of a Federal-aid highway in the State of Alaska and who is not a domiciled resident of the locality shall receive meals and lodging.”; and

(B) in paragraph (3)(C) by striking “highway or portion of a highway located on a Federal-aid system” and inserting “Federal-aid highway or portion of a Federal-aid highway”.

SEC. 1505. MAINTENANCE.

Section 116 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence, by inserting “or other direct recipient” before “to maintain”; and

(B) by striking the second sentence;

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

“(b) AGREEMENT.—In any State in which the State transportation department or other direct recipient is without legal authority to maintain a project described in
subsection (a), the transportation department or direct recipient shall enter into a formal agreement with the appropriate officials of the county or municipality in which the project is located providing for the maintenance of the project.”; and

(3) in the first sentence of subsection (c) by inserting “or other direct recipient” after “State transportation department”.

SEC. 1506. FEDERAL SHARE PAYABLE.

Section 120 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (c)(1)—

(A) by inserting “maintaining minimum levels of retroreflectivity of highway signs or pavement markings,” after “traffic control signalization,”;

(B) by inserting “shoulder and centerline rumble strips and stripes,” after “pavement marking,”; and

(C) by striking “Federal-aid systems” and inserting “Federal-aid programs”;

(2) in subsection (e)—

(A) in the first sentence—
(i) in the matter preceding paragraph (1) by striking “on such highway” and inserting “on the system”; and

(ii) in paragraph (1) by striking “within 180 days after the actual occurrence of the natural disaster or catastrophic failure may amount to 100 percent of the costs thereof” and inserting “, beginning for fiscal year 2012, in such time period as the Secretary, in consultation with the Governor of the impacted State, determines to be appropriate within 270 days after the occurrence of the natural disaster or catastrophic failure, taking into consideration any delay in the ability of the State to access damaged facilities to evaluate damage and the cost of repair, may be, in the discretion of the Secretary, up to 100 percent if the eligible expenses incurred by the State due to the natural disaster or catastrophic failure exceeds the annual apportionment of the State under section 104 for the fiscal year in which the disaster or failure occurred”; and
(ii)(iii) in paragraph (2) by striking “forest highways, forest development roads and trails, park roads and trails, parkways, public lands highways, public lands development roads and trails, and Indian reservation roads” and inserting “Federal land transportation facilities and tribal transportation facilities”; and
(B) by striking the second and third sentences;
(3) by striking subsection (g) and redesignating subsections (h) through (l) as subsections (g) through (k), respectively;
(4) in subsection (i)(1)(A) (as redesignated by paragraph (3)) by striking “and the Appalachian development highway system program under section 14501 of title 40”; and
(5) by striking subsections (j) and (k) (as redesignated by paragraph (3)) and inserting the following:
“(j) Use of Federal Agency Funds.—Notwithstanding any other provision of law, any Federal funds other than those made available under this title and title 49, United States Code, may be used to pay the non-Federal share of the cost of any transportation project that
is within, adjacent to, or provides access to Federal land, 
the Federal share of which is funded under this title or 
chapter 53 of title 49.

“(k) Use of Federal Land and Tribal Transportation Funds.—Notwithstanding any other provi-
sion of law, the funds authorized to be appropriated to 
carry out the tribal transportation program under section 
202 and the Federal lands transportation program under 
section 203 may be used to pay the non-Federal share of 
the cost of any project that is funded under this title or 
chapter 53 of title 49 and that provides access to or within 
Federal or tribal land.”.

SEC. 1507. TRANSFERABILITY OF FEDERAL- AID HIGHWAY 
FUNDS.

(a) In General.—Section 126 of title 23, United 
States Code, is amended to read as follows:

“§ 126. Transferability of Federal-aid highway funds 
“(a) In General.—Notwithstanding any other pro-
vision of law, subject to subsection (b), a State may trans-
fer from an apportionment under section 104(b) not to 
exceed 20 percent of the amount apportioned for the fiscal 
year to any other apportionment of the State under that 
section.
“(b) Application to Certain Set-asides.—Funds that are subject to sections 104(d) and 133(d) shall not be transferred under this section.”.

(b) Conforming Amendment.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 126 and inserting the following:

“126. Transferability of Federal-aid highway funds.”.

SEC. 1508. SPECIAL PERMITS DURING PERIODS OF NATIONAL EMERGENCY.

Section 127 of title 23, United States Code, is amended by inserting at the end the following:

“(i) Special Permits During Periods of National Emergency.—

“(1) In general.—Notwithstanding any other provision of this section, a State may issue special permits during an emergency to overweight vehicles and loads that can easily be dismantled or divided if—

“(A) the President has declared the emergency to be a major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.);

“(B) the permits are issued in accordance with State law; and
“(C) the permits are issued exclusively to vehicles and loads that are delivering relief supplies.

“(2) Expiration.—A permit issued under paragraph (1) shall expire not later than 120 days after the date of the declaration of emergency under subparagraph (A) of that paragraph.”.

SEC. 1509. ELECTRIC VEHICLE CHARGING STATIONS.

(a) Fringe and Corridor Parking Facilities.—Section 137 of title 23, United States Code, is amended—

(1) in subsection (a) by inserting after the second sentence the following: “The addition of electric vehicle charging stations to new or previously funded parking facilities shall be eligible for funding under this section.”; and

(2) in subsection (f)(1)—

(A) by striking “104(b)(4)” and inserting “104(b)(1)”;

(B) by inserting “including the addition of electric vehicle charging stations,” after “new facilities,”.

(b) Public Transportation.—Section 142(a)(1) of title 23, United States Code, is amended by inserting “(which may include electric vehicle charging stations)” after “corridor parking facilities”.
SEC. 1510. HOV FACILITIES.

Section 166 of title 23, United States Code, is amended—

(1) in subsection (b)(5)—

(A) in subparagraph (A) by striking “Before September 30, 2009, the” and inserting “The”; and

(B) in subparagraph (B) by striking “Before September 30, 2009, the” and inserting “The”; and

(2) in subsection (d)(1)—

(A) in the matter preceding subparagraph (A)—

(i) by striking “in a fiscal year shall certify” and inserting “shall submit to the Secretary a report demonstrating that the facility is not already degraded, and that the presence of the vehicles will not cause the facility to become degraded, and certify”; and

(ii) by striking “in the fiscal year”;

(B) in subparagraph (A) by inserting “and submitting to the Secretary annual reports of those impacts” after “adjacent highways”; and

(C) in subparagraph (C) by striking “if the presence of the vehicles has degraded the oper-
ation of the facility” and inserting “whenever
the operation of the facility is degraded”; and

(D) by adding at the end the following:

“(D) MAINTENANCE OF OPERATING PER-
FORMANCE.—A facility that has become de-
graded shall be brought back into compliance
with the minimum average operating speed per-
formance standard by not later than 180 days
after the date on which the degradation is iden-
tified through changes to operation, including
the following:

“(i) Increase the occupancy require-
ment for HOVs.

“(ii) Increase the toll charged for ve-
hicles allowed under subsection (b) to re-
duce demand.

“(iii) Charge tolls to any class of vehi-
icle allowed under subsection (b) that is not
already subject to a toll.

“(iv) Limit or discontinue allowing ve-
hicles under subsection (b).

“(v) Increase the available capacity of
the HOV facility.

“(E) COMPLIANCE.—If the State fails to
bring a facility into compliance under subpara-
graph (D), the Secretary shall subject the State to appropriate program sanctions under section 1.36 of title 23, Code of Federal Regulations (or successor regulations), until the performance is no longer degraded.”.

SEC. 1511. CONSTRUCTION EQUIPMENT AND VEHICLES.

(a) In General.—Chapter 3 of title 23, United States Code, is amended by adding at the end the following:

“SEC. 330. CONSTRUCTION EQUIPMENT AND VEHICLES.

“(a) In General.—In accordance with the obligation process established pursuant to section 149(j)(4), a State shall expend amounts required to be obligated for this section to install and employ diesel emission control technology on covered equipment, with an engine that does not meet any particulate matter emission standards current model year new engine standards for PM$_{2.5}$ for the applicable engine power group issued by the Environmental Protection Agency, on a covered highway project within a PM$_{2.5}$ nonattainment or maintenance area.

“(b) Definitions.—In this section, the following definitions apply:

“(1) Covered equipment.—The term ‘covered construction equipment’ means any off-road nonroad diesel equipment or on-road diesel equip-
ment that is operated on a covered highway con-
struction project for not less than 80 hours over the
life of the project.

“(2) Covered highway construction
project.—The term ‘covered highway construction
project’ means a highway construction project car-
rried out under this title or any other Federal law
which is funded in whole or in part with Federal
funds.

“(3) Diesel emission control tech-
ology.—The term ‘diesel emission control tech-
ology’ means a technology that—

“(A) is—

“(i) a diesel exhaust control tech-
nology;

“(ii) a diesel engine upgrade;

“(iii) a diesel engine repower; or

“(iv) an idle reduction control tech-
nology; and

“(B) reduces PM$_{2.5}$ emissions from covered
equipment by—

“(i) not less than 85 percent control
of any emission of particulate matter; or
“(ii) the maximum achievable reduction of any emission of particulate matter;

and

“(C) is installed on and operated with the covered equipment while the equipment is operated on a covered highway construction project and that remains operational on the covered equipment for the useful life of the control technology or equipment.

“(4) ELIGIBLE ENTITY.—The term ‘eligible entity’ means an entity (including a subcontractor of the entity) that has entered into a prime contract or agreement with a State to carry out a covered highway construction project.

“(5) OFF-ROAD NONROAD DIESEL EQUIPMENT.—

“(A) IN GENERAL.—The term ‘off-road nonroad diesel equipment’ means a vehicle, including covered equipment, that is—

“(i) powered by a nonroad diesel engine of not less than 50 horsepower; and

“(ii) not intended for highway use.

“(B) INCLUSIONS.—The term ‘off-road nonroad diesel equipment’ includes a backhoe,
bulldozer, compressor, crane, excavator, generator, and similar equipment.

“(C) Exclusions.—The term ‘nonroad diesel equipment’ does not include a locomotive or marine vessel.

“(6) On-road diesel equipment.—The term ‘on-road diesel equipment’ means any self-propelled vehicle that—

“(A) operates on diesel fuel;

“(B) is designed to transport persons or property on a street or highway; and

“(C) has a gross vehicle weight rating of at least 14,000 pounds.

“(7) PM\textsubscript{2.5} nonattainment or maintenance area.—The term ‘PM\textsubscript{2.5} nonattainment or maintenance area’ means a nonattainment or maintenance area designated under section 107(d)(6) of the Clean Air Act (42 U.S.C. 7407(d)(6)).

“(c) Criteria Eligible Activities.—

“(1) Diesel exhaust control technology.—For a diesel exhaust control technology, the technology shall be—

“(A) installed on a diesel engine or vehicle;

“(B) included in the list of verified or certified technologies for non-road vehicles and
non-road engines (as defined in section 216 of
the Clean Air Act (42 U.S.C. 7550)) published
pursuant to subsection (f)(2) of section 149, as
in effect on the day before the date of enact-
ment of the MAP-21; and

“(C) certified by the installer as having
been installed in accordance with the specifica-
tions included on the list referred to in sub-
clause (II) subparagraph (B) for achieving a re-
duction in PM$_{2.5}$.

“(2) DIESEL ENGINE UPGRADE.—For a diesel
engine upgrade, the upgrade shall be performed on
an engine that is—

“(A) rebuilt using new components that
collectively appear as a system in the list of
verified or certified technologies for non-road
vehicles and non-road engines (as defined in
section 216 of the Clean Air Act (42 U.S.C.
7550)) published pursuant to subsection (f)(2)
of section 149, as in effect on the day before
the date of enactment of the MAP-21; and

“(B) certified by the installer to have been
installed in accordance with the specifications
included on the list referred to in subclause (I)
subparagraph (A) for achieving a reduction in PM$_{2.5}$.

“(3) DIESEL ENGINE REPOWER.—For a diesel engine repower, the repower shall be conducted on a new or remanufactured diesel engine that is—

“(A) installed as a replacement for an engine used in the existing equipment, subject to the condition that the replaced engine is—

“(i) used for scrap;

“(ii) permanently disabled; or

“(iii) returned to the original manufacturer for remanufacture to a PM level that is at least equivalent to a Tier 2 emission standard; and

“(B) certified by the engine manufacturer as meeting the emission standards for new vehicles for the applicable engine power group established by the Environmental Protection Agency as in effect on the date on which the engine is remanufactured.

“(4) IDLE REDUCTION CONTROL TECHNOLOGY.—For an idle reduction control technology, the technology shall be—

“(A) installed on a diesel engine or vehicle;
“(B) included in the list of verified or certified technologies for non-road vehicles and non-road engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) published pursuant to subsection (f)(2) of section 149, as in effect on the day before the date of enactment of the MAP-21; and

“(C) certified by the installer as having been installed in accordance with the specifications included on the list referred to in subclause (II) subparagraph (B) for achieving a reduction in PM$_{2.5}$.”.

(b) SAVINGS CLAUSE.—Nothing in this section modifies or otherwise affects any authority or restrictions established under the Clean Air Act (42 U.S.C. 7401 et seq.).

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 21 years after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes the manners in which section 330 of title 23, United States Code (as added by subsection
(a)) has been implemented, including the quantity of covered equipment serviced under those sections and the costs associated with servicing the covered equipment.

(2) INFORMATION FROM STATES.—The Secretary shall require States and recipients, as a condition of receiving amounts under this Act or under the provisions of any amendments made by this Act, to submit to the Secretary any information that the Secretary determines necessary to complete the report under paragraph (1).

(d) TECHNICAL AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by adding at the end the following:

“330. Construction equipment and vehicles.”.

SEC. 1512. USE OF DEBRIS FROM DEMOLED BRIDGES AND OVERPASSES.

Section 1805(a) of the SAFETEA–LU (23 U.S.C. 144 note; 119 Stat. 1459) is amended by striking “highway bridge replacement and rehabilitation program under section 144” and inserting “national highway performance program under section 119”.
SEC. 1513. EXTENSION OF PUBLIC TRANSIT VEHICLE EX-
EMPTION FROM AXLE WEIGHT RESTRI-
CTIONS.

Section 1023(h)(1) of the Intermodal Surface Trans-
Public Law 102–388) is amended by striking “, for the 
period beginning on October 6, 1992, and ending on Octo-
ber 1, 2009, “.

SEC. 1514. UNIFORM RELOCATION ASSISTANCE ACT 
AMENDMENTS.

(a) MOVING AND RELATED EXPENSES.—Section 202 
of the Uniform Relocation Assistance and Real Property 
Acquisition Policies Act of 1970 (42 U.S.C. 4622) is 
amended—

(1) in subsection (a)(4) by striking “$10,000” 
and inserting “$25,000, as adjusted by regulation, 
in accordance with section 213(d)”;

(2) in the second sentence of subsection (c) by 
striking “$20,000” and inserting “$40,000, as ad-
justed by regulation, in accordance with section 
213(d)”.

(b) REPLACEMENT HOUSING FOR HOMEOWNERS.—
The first sentence of section 203(a)(1) of the Uniform Re-
location Assistance and Real Property Acquisition Policies 
Act of 1970 (42 U.S.C. 4623(a)(1)) is amended—
(1) by striking “$22,500” and inserting “$31,000, as adjusted by regulation, in accordance with 213(d),”; and

(2) by striking “one hundred and eighty days prior to” and inserting “90 days before”.

(c) Replacement Housing for Tenants and Certain Others.—Section 204 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4624) is amended—

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

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

(d) Duties of Lead Agency.—Section 213 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4633) is amended—

(1) in subsection (b)—

(A) in paragraph (2) by striking “and” at the end;

(B) in paragraph (3) by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:
“(4) that each Federal agency that has programs or projects requiring the acquisition of real property or causing a displacement from real property subject to the provisions of this Act shall provide to the lead agency an annual summary report the describes the activities conducted by the Federal agency.”; and

(2) by adding at the end the following:

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

(e) AGENCY COORDINATION.—Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is amended by inserting after section 213 (42 U.S.C. 4633) the following:

“SEC. 214. AGENCY COORDINATION.

“(a) AGENCY CAPACITY.—Each Federal agency responsible for funding or carrying out relocation and acquisition activities shall have adequately trained personnel and such other resources as are necessary to manage and
oversee the relocation and acquisition program of the Federal agency in accordance with this Act.

“(b) Interagency Agreements.—Not later than 1 year after the date of enactment of this section, each Federal agency responsible for funding relocation and acquisition activities (other than the agency serving as the lead agency) shall enter into a memorandum of understanding with the lead agency that—

“(1) provides for periodic training of the personnel of the Federal agency, which in the case of a Federal agency that provides Federal financial assistance, may include personnel of any displacing agency that receives Federal financial assistance;

“(2) addresses ways in which the lead agency may provide assistance and coordination to the Federal agency relating to compliance with the Act on a program or project basis; and

“(3) addresses the funding of the training, assistance, and coordination activities provided by the lead agency, in accordance with subsection (c).

“(c) Interagency Payments.—

“(1) In General.—For the fiscal year that begins 1 year after the date of enactment of this section, and each fiscal year thereafter, each Federal agency responsible for funding relocation and acqui-
sition activities (other than the agency serving as the lead agency) shall transfer to the lead agency for the fiscal year, such funds as are necessary, but not less than $35,000, to support the training, assistance, and coordination activities of the lead agency described in subsection (b).

“(2) INCLUDED COSTS.—The cost to a Federal agency of providing the funds described in paragraph (1) shall be included as part of the cost of 1 or more programs or projects undertaken by the Federal agency or with Federal financial assistance that result in the displacement of persons or the acquisition of real property.”

(f) COOPERATION WITH FEDERAL AGENCIES.—Section 308 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

“(a) AUTHORIZED ACTIVITIES.—

“(1) IN GENERAL.—The Secretary may perform, by contract or otherwise, authorized engineering or other services in connection with the survey, construction, maintenance, or improvement of highways for other Federal agencies, cooperating foreign countries, and State cooperating agencies.

“(2) INCLUSIONS.—Services authorized under paragraph (1) may include activities authorized
under section 214 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

“(3) **Reimbursement.**—Reimbursement for services carried out under this subsection (including depreciation on engineering and road-building equipment) shall be credited to the applicable appropriation.”.

(g) **Effective Dates.**—

(1) **In General.**—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of enactment of this Act.

(2) **Exception.**—The amendments made by subsections (a) through (c) shall take effect 2 years after the date of enactment of this Act.

**SEC. 1515. USE OF YOUTH SERVICE AND CONSERVATION CORPS.**

(a) **In General.**—The Secretary shall encourage the States and regional transportation planning agencies to enter into contracts and cooperative agreements with Healthy Futures Corps under section 122(a)(2) of the National and Community Service Act of 1990 (42 U.S.C. 12572(a)(2)) or qualified urban youth corps (as defined
in section 106(c) of the National and Community Service
Trust Act of 1993 (42 U.S.C. 12656(e)) to perform—

(1) appropriate projects eligible under sections
162, 206, and 217 of title 23, United States Code;

(2) appropriate transportation enhancement ac-
tivities (as defined in section 101(a) of such title);

(3) appropriate transportation byway, trail, or
bicycle and pedestrian projects under section 204 of
such title; and

(4) appropriate safe routes to school projects
under section 1404 of the SAFETEA–LU (23

(b) REQUIREMENTS.—Under any contract or cooper-
ative agreement entered into with a Healthy Futures
Corps or qualified urban youth corps under this section,
the Secretary—

(1) shall establish the amount of a living allow-
ance or rate of pay for each participant in such
corps—

(A) at such amount or rate as is required
under State law in a State with such a require-
ment; or

(B) for corps in a State not described in
subparagraph (A), at such amount or rate as
determined by the Secretary, not to exceed the
maximum living allowance authorized by section 140 of the National and Community Service Act of 1990 (42 U.S.C. 12594); and

(2) shall not subject such corps to the requirements of section 112 of title 23, United States Code.

SEC. 1516. CONSOLIDATION OF PROGRAMS; REPEAL OF OBSOLETE PROVISIONS.

(a) CONSOLIDATION OF PROGRAMS.—From administrative funds made available under section 104(a) of title 23, United States Code, not less than $10,000,000 for each fiscal year $15,000,000 for each of fiscal years 2012 and 2013 shall be made available for the following activities:

(1) To carry out the operation lifesaver program—

(A) to provide public information and education programs to help prevent and reduce motor vehicle accidents, injuries, and fatalities; and

(B) to improve driver performance at railway-highway crossings.

(2) To operate the national work zone safety information clearinghouse authorized by section 358(b)(2) of the National Highway System Designa-

(3) To operate a public road safety clearing-
house in accordance with section 1411(a) of the
1234).

(4) To operate a bicycle and pedestrian safety
clearinghouse in accordance with section 1411(b) of
1234).

(5) To operate a national safe routes to school
clearinghouse in accordance with section 1404(g) of
1229).

(6) To provide work zone safety grants in ac-
cordance with subsections (a) and (b) of section
1409 of the SAFETEA–LU (23 U.S.C. 401 note;

(7) To provide grants to prohibit racial profiling
in accordance with section 1906 of the SAFETEA-LU

(b) REPEALS.—Sections 105, 110, 117, 124, 147,
151, 155, 160, and 303 of title 23, United States Code,
are repealed.

(c) CONFORMING AMENDMENTS.—
(1) **TITLE ANALYSIS.**—The analysis for title 23, United States Code, is amended by striking the items relating to sections 105, 110, 117, 124, 147, 152, 155, 160, and 303 of that title.

(2) **SECTION 118.**—Section 118 of such title is amended—

(A) in subsection (b)—

(i) by striking paragraph (1) and all that follows through the heading of paragraph (2); and

(ii) by striking “(other than for Interstate construction)”; and

(B) by striking subsection (c); and

(C) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(3) **SECTION 130.**—Section 130 of such title is amended—

(A) by striking subsections (e) through (h);

(B) by redesignating subsection (i) as subsection (e);

(C) by striking subsections (j) and (k);

(D) by redesignating subsection (l) as subsection (f);

(E) in subsection (e) (as so redesignated) by striking “this section” in the second place it
appears the second place it appears and inserting “section 104(b)(3)”; and

(F) in subsection (f) (as so redesignated) by striking paragraphs (3) and (4).

(4) SECTION 142.—Section 142 of title 23, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) by striking “motor vehicles (other than rail)” and inserting “buses”;

(II) by striking “(hereafter in this section referred to as ‘buses’)”; 

(III) by striking “Federal-aid systems” and inserting “Federal-aid highways”; and

(IV) by striking “Federal-aid system” and inserting “Federal-aid highway”; and

(ii) in paragraph (2)—

(I) by striking “as a project on the the surface transportation program for”; and
(II) by striking "section 104(b)(3)" and inserting "section 104(b)(2);"

(B) in subsection (b) by striking "104(b)(4)" and inserting "104(b)(1)";

(C) in subsection (c)—

(i) by striking "system" in each place it appears and inserting "highway"; and

(ii) by striking "highway facilities" and inserting "highways eligible under the program that is the source of the funds";

(D) in subsection (e)(2)—

(i) by striking "Notwithstanding section 209(f)(1) of the Highway Revenue Act of 1956, the Highway Trust Fund shall be available for making expenditures to meet obligations resulting from projects authorized by subsection (a)(2) of this section and such projects" and inserting "Projects authorized by subsection (a)(2)"; and

(ii) striking "on the surface transportation program" and inserting "under the transportation mobility program"; and

(E) in subsection (f) by striking "exists" and inserting "exists".
(5) Section 145.—Section 145(b) of title 23, United States Code, is amended by striking “section 117 of this title,”.

(6) Section 322.—Section 322(h)(3) of title 23, United States Code, is amended by striking “surface transportation program” and inserting “the transportation mobility program”.

(d) Certain Allocations.—Notwithstanding any other provision of law, any unobligated balances of amounts required to be allocated to a State by section 1307(d)(1) of the SAFETEA–LU (23 U.S.C. 322 note; 119 Stat. 1217; 122 Stat. 1577) shall instead be made available to such State for any purpose eligible under section 133(c) of title 23, United States Code.

Sec. 1517. Rescissions.

(a) Fiscal Year 2012.—

(1) Not later than 30 days after the date of enactment of this Act, of the unobligated balances available under sections 144(f) and 320 of title 23, United States Code, section 147 of Public Law 95–599 (23 U.S.C. 144 note; 92 Stat. 2714), section 9(c) of Public Law 97–134 (95 Stat. 1702), section 149 of Public Law 100–17 (101 Stat. 181), sections 1006, 1069, 1103, 1104, 1105, 1106, 1107, 1108, 6005, 6015, and 6023 of Public Law 102–240 (105
Stat. 1914), section 1602 of Public Law 105–178
(112 Stat. 256), sections 1301, 1302, 1702, and
1934 of Public Law 109–59 (119 Stat. 1144), and
of other funds apportioned to each State under
chapter 1 of title 23, United States Code, prior to
the date of enactment of this Act, $2,391,000,000
are permanently rescinded.

(2) In administering the rescission required
under this subsection, the Secretary shall allow each
State to determine the amount of the required re-
scission to be drawn from the programs to which the
rescission applies.

(b) FISCAL YEAR 2013.—

(1) On October 1, 2012, of the unobligated bal-
ances of funds apportioned or allocated on or before
that date to each State under chapter 1 of title 23,
United States Code, $3,054,000,000 are perma-
nently rescinded.

(2) Notwithstanding section 1132 of the Energy
Independence and Security Act of 2007 (Public Law
110–140; 121 Stat. 1763), in administering the re-
scission required under this subsection, the Sec-
retary shall allow each State to determine the
amount of the required rescission to be drawn from
the programs to which the rescission applies.
SEC. 1518. STATE AUTONOMY FOR CULVERT PIPE SELECTION.

Not later than 180 days after the date of enactment of this Act, the Secretary shall modify section 635.411 of title 23, Code of Federal Regulations (as in effect on the date of enactment of this Act), to ensure that States shall have the autonomy to determine culvert and storm sewer material types to be included in the construction of a project on a Federal-aid highway.

SEC. 1519. EFFECTIVE AND SIGNIFICANT PERFORMANCE MEASURES.

(a) Limited Number of Performance Measures.—In implementing provisions of this Act (including the amendments made by this Act) and title 23, United States Code (other than chapter 4 of that title), that authorize the Secretary to develop performance measures, the Secretary shall limit the number of performance measures established to the most significant and effective measures.

(b) Different Approaches for Urban and Rural Areas.—In the development and implementation of any performance target, a State may, as appropriate, provide for different performance targets for urbanized and rural areas.

SEC. 1520. REQUIREMENTS FOR ELIGIBLE BRIDGE PROJECTS.

(a) Definitions.—In this section:
(1) **Eligible Bridge Project.**—The term “eligible bridge project” means a project for construction, alteration, or repair work on a bridge or overpass funded directly by, or provided other assistance through, the Federal Government.

(2) **Qualified Training Program.**—The term “qualified training program” means a training program that—

(A)(i) is certified by the Secretary of Labor; and

(ii) with respect to an eligible bridge project located in an area in which the Secretary of Labor determines that a training program does not exist, is registered with—

(I) the Department of Labor; or

(II) a State agency recognized by the Department of Labor for purposes of a Federal training program; or

(B) is a corrosion control, mitigation and prevention personnel training program that is offered by an organization whose standards are recognized and adopted in other Federal or State Departments of Transportation.

(3) **Secretary.**—The term “Secretary” means the Secretary of Transportation.
(b) Eligibility Requirements.—

(1) In general.—Each contractor and subcontractor that carries out any aspect of an eligible bridge project described in paragraph (2) shall—

(A) before entering into the applicable contract, be certified by the Secretary or a State, in accordance with paragraph (4), as meeting the eligibility requirements described in paragraph (3); and

(B) remain certified as described in subparagraph (A) while carrying out the applicable aspect of the eligible bridge project.

(2) Description of aspects of eligible bridge projects.—An aspect of an eligible bridge project referred to in paragraph (1) is—

(A) surface preparation or coating application on bridge steel of an eligible bridge project;

(B) removal of a lead-based or other hazardous coating from bridge steel of an existing eligible bridge project;

(C) shop painting of structural steel fabricated for installation on bridge steel of an eligible bridge project; and
(D) the design, application, installation, and maintenance of a cathodic protection system.

(3) REQUIREMENTS.—The eligibility requirements referred to in paragraph (1) are that a contractor or subcontractor shall—

(A) as determined by the Secretary—

(i) use corrosion mitigation and prevention methods to preserve relevant bridges and overpasses, taking into account—

(I) material selection;

(II) coating considerations;

(III) cathodic protection considerations;

(IV) design considerations for corrosion; and

(V) trained applicators;

(ii) use best practices—

(I) to prevent environmental degradation; and

(II) to ensure careful handling of all hazardous materials; and

(iii) demonstrate a history of employing industry-respected inspectors to ensure
funds are used in the interest of affected taxpayers; and

(B) demonstrate a history of compliance with applicable requirements of the Occupational Safety and Health Administration, as determined by the Secretary of Labor.

(4) STATE CONSULTATION.—In determining whether to certify a contractor or subcontractor under paragraph (1)(A), a State shall consult with engineers and other experts trained in accordance with subsection (a)(2) specializing in corrosion control, mitigation, and prevention methods.

(c) OPTIONAL TRAINING PROGRAM.—As a condition of entering into a contract for an eligible bridge project, each contractor and subcontractor that performs construction, alteration, or repair work on a bridge or overpass for the eligible bridge project may provide, or make available, training, through a qualified training program, for each applicable craft or trade classification of employees that the contractor or subcontractor intends to employ to carry out aspects of eligible bridge projects as described in subsection (b)(2).
TITLE II—RESEARCH AND EDUCATION
Subtitle A—Funding

SEC. 2101. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—The following amounts are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) Highway research and development program.—To carry out sections 503(b), 503(d), and 509 of title 23, United States Code, $90,000,000 for each of fiscal years 2012 and 2013.

(2) Technology and innovation deployment program.—To carry out section 503(c) of title 23, United States Code, $90,000,000 for each of fiscal years 2012 and 2013.

(3) Training and education.—To carry out section 504 of title 23, United States Code, $24,000,000 for each of fiscal years 2012 and 2013.

(4) Intelligent transportation systems program.—To carry out sections 512 through 518 of title 23, United States Code, $100,000,000 for each of fiscal years 2012 and 2013.

(5) University transportation centers program.—To carry out section 5505 of title 49,
United States Code, $70,000,000 for each of fiscal
years 2012 and 2013.

(6) Bureau of transportation statistics.—To carry out chapter 65 of title 49, United
States Code, $26,000,000 for each of fiscal years
2012 and 2013.

(b) Applicability of Title 23, United States
Code.—Funds authorized to be appropriated by sub-
section (a) shall—

(1) be available for obligation in the same man-
ner as if those funds were apportioned under chap-
ter 1 of title 23, United States Code, except that the
Federal share of the cost of a project or activity car-
ried out using those funds shall be 80 percent, un-
less otherwise expressly provided by this Act (includ-
ing the amendments by this Act) or otherwise deter-
mined by the Secretary; and

(2) remain available until expended and not be
transferable.

Subtitle B—Research, Technology,
and Education

SEC. 2201. RESEARCH, TECHNOLOGY, AND EDUCATION.

Section 501 of title 23, United States Code, is
amended—
(1) by redesignating paragraph (2) as paragraph (8);

(2) by inserting after paragraph (1) the following:

“(2) INCIDENT.—The term ‘incident’ means a crash, natural disaster, workzone activity, special event, or other emergency road user occurrence that adversely affects or impedes the normal flow of traffic.

“(3) INNOVATION LIFECYCLE.—The term ‘innovation lifecycle’ means the process of innovating through—

“(A) the identification of a need;

“(B) the establishment of the scope of research to address that need;

“(C) setting an agenda;

“(D) carrying out research, development, deployment, and testing of the resulting technology or innovation; and

“(E) carrying out an evaluation of the impact of the resulting technology or innovation.

“(4) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term ‘intelligent transportation infrastructure’ means fully integrated public sector
intelligent transportation system components, as defined by the Secretary.

“(5) **Intelligent Transportation System.**—The terms ‘intelligent transportation system’ and ‘ITS’ mean electronics, photonics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

“(6) **National Architecture.**—For purposes of this chapter, the term ‘national architecture’ means the common framework for interoperability that defines—

“(A) the functions associated with intelligent transportation system user services;

“(B) the physical entities or subsystems within which the functions reside;

“(C) the data interfaces and information flows between physical subsystems; and

“(D) the communications requirements associated with the information flows.

“(7) **Project.**—The term ‘project’ means an undertaking to research, develop, or operationally test intelligent transportation systems or any other undertaking eligible for assistance under this chapter.”; and
(3) by inserting after paragraph (8) (as so redesignated) the following:

“(9) STANDARD.—The term ‘standard’ means a document that—

“(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for the intended purposes of the materials, products, processes, and services; and

“(B) may support the national architecture and promote—

“(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

“(ii) interoperability among intelligent transportation system technologies implemented throughout the States.”.
SEC. 2202. SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT, AND TECHNOLOGY.

(a) Surface Transportation Research, Development, and Technology.—Section 502 of title 23, United States Code, is amended—

(1) in the section heading by inserting “, DEVELOPMENT, AND TECHNOLOGY” after “SURFACE TRANSPORTATION RESEARCH”;

(2) in subsection (a)—

(A) by redesignating paragraphs (1) through (8) as paragraphs (2) through (9), respectively;

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

“(1) APPLICABILITY.—The research, development, and technology provisions of this section shall apply throughout this chapter.”;

(C) in paragraph (2) (as redesignated by subparagraph (A))—

(i) by inserting “within the innovation lifecycle” after “activities”; and

(ii) by inserting “marketing and communications, impact analysis,” after “training,”;
(D) in paragraph (3) (as redesignated by subparagraph (A))—

(i) in subparagraph (B) by striking “supports research in which there is a clear public benefit and” and inserting “delivers a clear public benefit and occurs where”;

(ii) in subparagraph (C) by striking “or” after the semicolon;

(iii) by redesignating subparagraph (D) as subparagraph (H); and

(iv) by inserting after subparagraph (C) the following:

“(D) meets and addresses current or emerging needs;

“(E) presents the best means to align resources with multiyear plans and priorities;

“(F) ensures the coordination of highway research and technology transfer activities, including through activities performed by university transportation centers;

“(G) educates current and future transportation professionals; or”;

“...
(E) in paragraph (4) (as redesignated by subparagraph (A)) by striking subparagraphs (B) through (D) and inserting the following:

“(B) partner with State highway agencies and other stakeholders as appropriate, including international entities, to facilitate research and technology transfer activities;

“(C) communicate the results of ongoing and completed research;

“(D) lead efforts to coordinate national emphasis areas of highway research, technology, and innovation deployment;

“(E) leverage partnerships with industry, academia, and international entities; and

“(F) conduct, facilitate, and support training and education of current and future transportation professionals.”;

(F) in paragraph (5)(C) (as redesignated by subparagraph (A)) by striking “policy and planning” and inserting “all highway objectives seeking to improve the performance of the transportation system”;

(G) in paragraph (6) (as redesignated by subparagraph (A)) in the second sentence, by
inserting “tribal governments,” after “local governments,”; and

(H) in paragraph (8) (as redesignated by subparagraph (A))—

(i) in the first sentence, by striking

“To the maximum” and inserting the following:

“(A) IN GENERAL.—To the maximum”;

(ii) in the second sentence, by striking

“Performance measures” and inserting the following:

“(B) PERFORMANCE MEASURES.—Performance measures”;

(iii) in the third sentence, by striking

“All evaluations” and inserting the following:

“(D) AVAILABILITY OF EVALUATIONS.—All evaluations under this paragraph”; and

(iv) by inserting after subparagraph (B) the following:

“(C) PROGRAM PLAN.—To the maximum extent practicable, each program pursued under this chapter shall be part of a data-driven, outcome-oriented program plan.”;

(3) in subsection (b)—
(A) in paragraph (4) by striking “surface transportation research and technology development strategic plan developed under section 508” and inserting “the transportation research and development strategic plan of the Secretary”; 

(B) in paragraph (5) by striking “section” each place it appears and inserting “chapter”;

(C) in paragraph (6) by adding at the end the following:

“(C) **TRANSFER OF AMOUNTS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.**—The Secretary may, at the request of a State, transfer amounts apportioned or allocated to that State under this chapter to another State or the Federal Highway Administration to fund research, development, and technology transfer activities of mutual interest on a pooled funds basis.

“(D) **TRANSFER OF OBLIGATION AUTHORITY.**—Obligation authority for amounts transferred under this subsection shall be disbursed in the same manner and for the same amount as provided for the project being transferred.”;
(D) by adding at the end the following:

“(7) Prize competitions.—

“(A) In general.—The Secretary may carry out prize competitions to award competitive prizes for surface transportation innovations that have the potential for application to the research and technology objectives and activities of the Federal Highway Administration to improve system performance.

“(B) Requirements.—

“(i) In general.—The Secretary shall use a competitive process for the selection of prize recipients and shall widely advertise and solicit participation in prize competitions under this paragraph.

“(ii) Registration required.—No individual or entity shall participate in a prize competition under this paragraph unless the individual or entity has registered with the Secretary in accordance with the eligibility requirements established by the Secretary under clause (iii).

“(iii) Minimum requirements.—The Secretary shall establish eligibility requirements for participation in each prize com-
petition under this paragraph, which, at a minimum, shall—

“(I) limit participation in the prize competition to—

“(aa) individuals who are citizens of the United States;

“(bb) entities organized or existing under the laws of the United States or of a State; and

“(cc) entities organized or existing under the laws of a foreign country, if the controlling interest, as defined by the Secretary, is held by an individual or entity described in item (aa) or (bb);

“(II) require any individual or entity that registers for a prize competition—

“(aa) to assume all risks arising from participation in the competition; and

“(bb) to waive all claims against the Federal Government for any damages arising out of
participation in the competition, including all claims, whether through negligence or otherwise, except in the case of willful misconduct, for—

“(AA) injury, death, damage, or loss of property;

or

“(BB) loss of revenue or profits, whether direct, indirect, or consequential;

and

“(III) require any individual or entity that registers for a prize competition to waive all claims against any non-Federal entity operating or managing the prize competition, such as a private contractor managing competition activities, to the extent that the Secretary believes is necessary to protect the interests of the Federal Government.

“(C) Relationship to other authority.—The Secretary may exercise the authority in this section in conjunction with, or in addi-
tion to, any other authority of the Secretary to acquire, support, or stimulate innovations with the potential for application to the Federal highway research technology and education program.”;

(4) in subsection (c)—

(A) in paragraph (3)(A)—

(i) by striking “subsection” and inserting “chapter”; and

(ii) by striking “50” and inserting “80”; and

(B) in paragraph (4) by striking “subsection” and inserting “chapter”; and

(5) by striking subsections (d) through (j).

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by striking the item relating to section 502 and inserting the following:

“502. Surface transportation research, development, and technology.”.

SEC. 2203. RESEARCH AND TECHNOLOGY DEVELOPMENT AND DEPLOYMENT.

(a) IN GENERAL.—Section 503 of title 23, United States Code, is amended to read as follows:

“§ 503. Research and technology development and deployment

“(a) IN GENERAL.—The Secretary shall—
“(1) carry out research, development, and deployment activities that encompass the entire innovation lifecycle; and

“(2) ensure that all research carried out under this section aligns with the transportation research and development strategic plan of the Secretary.

“(b) Highway Research and Development Program.—

“(1) Objectives.—In carrying out the highway research and development program, the Secretary, to address current and emerging highway transportation needs, shall—

“(A) identify research topics;

“(B) coordinate domestic and international research and development activities;

“(C) carry out research, testing, and evaluation activities; and

“(D) provide technology transfer and technical assistance.

“(2) Contents.—Research and development activities carried out under this section may include any of the following activities:

“(A) Improving Highway Safety.—

“(i) In General.—The Secretary shall carry out research and development
activities from an integrated perspective to
establish and implement systematic meas-
ures to improve highway safety.

“(ii) OBJECTIVES.—In carrying out
this subparagraph the Secretary shall
carry out research and development activi-
ties—

“(I) to achieve greater long-term
safety gains;

“(II) to reduce the number of fa-
talities and serious injuries on public
roads;

“(III) to fill knowledge gaps that
limit the effectiveness of research;

“(IV) to support the development
and implementation of State strategic
highway safety plans;

“(V) to advance improvements
in, and use of, performance prediction
analysis for decisionmaking; and

“(VI) to expand technology
transfer to partners and stakeholders.

“(iii) CONTENTS.—Research and tech-
nology activities carried out under this
subparagraph may include—
“(I) safety assessments and decisionmaking tools;

“(II) data collection and analysis;

“(III) crash reduction projections;

“(IV) low-cost safety countermeasures;

“(V) innovative operational improvements and designs of roadway and roadside features;

“(VI) evaluation of countermeasure costs and benefits;

“(VII) development of tools for projecting impacts of safety countermeasures;

“(VIII) rural road safety measures;

“(IX) safety measures for vulnerable road users, including bicyclists and pedestrians;

“(X) safety policy studies;

“(XI) human factors studies and measures;

“(XII) safety technology deployment;
“(XIII) safety workforce professional capacity building initiatives;

“(XIV) safety program and process improvements; and

“(XV) tools and methods to enhance safety performance, including achievement of statewide safety performance targets.

“(B) IMPROVING INFRASTRUCTURE INTEGRITY.—

“(i) IN GENERAL.—The Secretary shall carry out and facilitate highway infrastructure research and development activities—

“(I) to maintain infrastructure integrity;

“(II) to meet user needs; and

“(III) to link Federal transportation investments to improvements in system performance.

“(ii) OBJECTIVES.—In carrying out this subparagraph, the Secretary shall carry out research and development activities—
“(I) to reduce the number of fatalities attributable to infrastructure design characteristics and work zones;

“(II) to improve the safety and security of highway infrastructure;

“(III) to increase the reliability of lifecycle performance predictions used in infrastructure design, construction, and management;

“(IV) to improve the ability of transportation agencies to deliver projects that meet expectations for timeliness, quality, and cost;

“(V) to reduce user delay attributable to infrastructure system performance, maintenance, rehabilitation, and construction;

“(VI) to improve highway condition and performance through increased use of design, materials, construction, and maintenance innovations;

“(VII) to reduce the lifecycle environmental impacts of highway infrastructure through innovations in de-
sign, construction, operation, preservation, and maintenance; and

“(VIII) to study vulnerabilities of the transportation system to seismic activities and extreme events and methods to reduce those vulnerabilities.

“(iii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

“(I) long-term infrastructure performance programs addressing pavements, bridges, tunnels, and other structures;

“(II) short-term and accelerated studies of infrastructure performance;

“(III) research to develop more durable infrastructure materials and systems;

“(IV) advanced infrastructure design methods;

“(V) accelerated highway construction;

“(VI) performance-based specifications;
“(VII) construction and materials quality assurance;

“(VIII) comprehensive and integrated infrastructure asset management;

“(IX) infrastructure safety assurance;

“(X) highway infrastructure security;

“(XI) sustainable infrastructure design and construction;

“(XII) infrastructure rehabilitation and preservation techniques, including techniques to rehabilitate and preserve historic infrastructure;

“(XIII) hydraulic, geotechnical, and aerodynamic aspects of infrastructure;

“(XIV) improved highway construction technologies and practices;

“(XV) improved tools, technologies, and models for infrastructure management, including assessment and monitoring of infrastructure condition;
“(XVI) studies to improve flexibility and resiliency of infrastructure systems to withstand climate variability;

“(XVII) studies of infrastructure resilience and other adaptation measures; and

“(XVIII) maintenance of seismic research activities, including research carried out in conjunction with other Federal agencies to study the vulnerability of the transportation system to seismic activity and methods to reduce that vulnerability.

“(iv) LIFECYCLE COSTS ANALYSIS STUDY.—

“(I) IN GENERAL.—In this clause, the term ‘lifecycle costs analysis’ means a process for evaluating the total economic worth of a usable project segment by analyzing initial costs and discounted future costs, such as maintenance, user, reconstruction, rehabilitation, restoring,
and resurfacing costs, over the life of
the project segment.

“(II) STUDY.—The Comptroller
General shall conduct a study of the
best practices for calculating lifecycle
costs for federally funded highway
projects. At a minimum, this study
shall include a thorough literature re-
view and a survey of current lifecycle
cost practices of State departments of
transportation.

“(III) CONSULTATION.—In car-
rying out this study, the Comptroller
shall consult with, at a minimum—

“(aa) the American Associa-
tion of State Highway and
Transportation Officials;

“(bb) appropriate experts in
the field of lifecycle cost analysis;
and

“(cc) appropriate industry
experts and research centers.

“(IV) REPORT.—Not later than
1 year after the date of enactment of
the MAP-21, the Comptroller General
shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study which shall include, but is not limited to—

“(aa) a summary of the latest research on lifecycle cost analysis; and

“(bb) recommendations on the appropriate—

“(AA) period of analysis;

“(BB) design period;

“(CC) discount rates; and

“(DD) use of actual material life and maintenance cost data.

“(C) STRENGTHENING TRANSPORTATION PLANNING AND ENVIRONMENTAL DECISION-MAKING.—

“(i) IN GENERAL.—The Secretary shall carry out research—
“(I) to improve transportation planning and environmental decision-making processes; and

“(II) to minimize the impact of surface transportation on the environment and quality of life.

“(ii) OBJECTIVES.—In carrying out this subparagraph the Secretary shall carry out research and development activities—

“(I) to reduce the impact of highway infrastructure and operations on the natural and human environment;

“(II) to advance improvements in environmental analyses and processes and context sensitive solutions for transportation decisionmaking;

“(III) to improve construction techniques;

“(IV) to accelerate construction to reduce congestion and related emissions;

“(V) to reduce the impact of highway runoff on the environment;
“(VI) to maintain sustainability of biological communities and ecosystems adjacent to highway corridors;

“(VII) to improve understanding and modeling of the factors that contribute to the demand for transportation;

“(VIII) to improve transportation planning decisionmaking and coordination; and

“(IX) to reduce the environmental impacts of freight movement.

“(iii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

“(I) creation of models and tools for evaluating transportation measures and transportation system designs;

“(II) congestion reduction efforts;

“(III) transportation and economic development planning in rural areas and small communities;
“(IV) improvement of State, local, and tribal capabilities relating to surface transportation planning and the environment;

“(V) environmental stewardship and sustainability activities;

“(VI) streamlining of project delivery processes;

“(VII) development of effective strategies and techniques to analyze and minimize impacts to the natural and human environment and provide environmentally beneficial mitigation;

“(VIII) comprehensive multinational planning;

“(IX) multistate transportation corridor planning;

“(X) improvement of transportation choices, including walking, bicycling, and linkages to public transportation;

“(XI) ecosystem sustainability;

“(XII) wildlife and plant population connectivity and interaction across and along highway corridors;
“(XIII) analysis, measurement, and reduction of air pollution from transportation sources;

“(XIV) advancement in the understanding of health impact analyses in transportation planning and project development;

“(XV) transportation planning professional development;

“(XVI) research on improving the cooperation and integration of transportation planning with other regional plans, including land use, energy, water infrastructure, economic development, and housing plans; and

“(XVII) reducing the environmental impacts of freight movement.

“(D) Reducing congestion, improving highway operations, and enhancing freight productivity.—

“(i) In general.—The Secretary shall carry out research under this subparagraph with the goals of—

“(I) addressing congestion problems;
“(II) reducing the costs of congestion;

“(III) improving freight movement;

“(IV) increasing productivity; and

“(V) improving the economic competitiveness of the United States.

“(ii) OBJECTIVES.—In carrying out this subparagraph, the Secretary shall carry out research and development activities to identify, develop, and assess innovations that have the potential—

“(I) to reduce traffic congestion;

“(II) to improve freight movement; and

“(III) to reduce freight-related congestion throughout the transportation network.

“(iii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

“(I) active traffic and demand management;
“(II) acceleration of the implementation of Intelligent Transportation Systems technology;

“(III) advanced transportation concepts and analysis;

“(IV) arterial management and traffic signal operation;

“(V) congestion pricing;

“(VI) corridor management;

“(VII) emergency operations;

“(VIII) research relating to enabling technologies and applications;

“(IX) freeway management;

“(X) evaluation of enabling technologies;

“(XI) freight industry professional development;

“(XII) impacts of vehicle size and weight on congestion;

“(XIII) freight operations and technology;

“(XIV) operations and freight performance measurement and management;
“(XV) organization and planning for operations;

“(XVI) planned special events management;

“(XVII) real-time transportation information;

“(XVIII) road weather management;

“(XIX) traffic and freight data and analysis tools;

“(XX) traffic control devices;

“(XXI) traffic incident management;

“(XXII) work zone management;

“(XXIII) communication of travel, roadway, and emergency information to persons with disabilities; and

“(XXIV) research on enhanced mode choice and intermodal connectivity.

“(E) ASSESSING POLICY AND SYSTEM FINANCING ALTERNATIVES.—

“(i) IN GENERAL.—The Secretary shall carry out research and technology on emerging issues in the domestic and inter-
national transportation community from a policy perspective.

“(ii) Objectives.—Research and technology activities carried out under this subparagraph shall provide information to policy and decisionmakers on current and emerging transportation issues.

“(iii) Research activities.—Activities carried out under this subparagraph shall include—

“(I) the planning and integration of a coordinated program related to the possible design, interoperability, and institutional roles of future sustainable transportation revenue mechanisms;

“(II) field trials to research potential alternative revenue mechanisms, and the Secretary may partner with individual States, groups of States, or other entities to implement such trials; and

“(III) other activities to study new methods which preserve a user-fee structure to maintain the long-
term solvency of the Highway Trust Fund.

“(iv) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

“(I) highway needs and investment analysis;

“(II) a motor fuel tax evasion program;

“(III) advancing innovations in revenue generation, financing, and procurement for project delivery;

“(IV) improving the accuracy of project cost analyses;

“(V) highway performance measurement;

“(VI) travel demand performance measurement;

“(VII) highway finance performance measurement;

“(VIII) international technology exchange initiatives;

“(IX) infrastructure investment needs reports;
“(X) promotion of the technologies, products, and best practices of the United States; and

“(XI) establishment of partnerships among the United States, foreign agencies, and transportation experts.

“(v) FUNDING.—Of the funds authorized to carry out this subsection, no less than 50 percent shall be used to carry out clause (iii).

“(F) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

“(i) IN GENERAL.—Not later than July 31, 2012, and July 31 of every second year thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that describes estimates of the future highway and bridge needs of the United States and the backlog of current highway and bridge needs.
“(ii) **Comparisons.**—Each report under clause (i) shall include all information necessary to relate and compare the conditions and service measures used in the previous biennial reports to conditions and service measures used in the current report.

“(iii) **Inclusions.**—Each report under clause (i) shall provide recommendations to Congress on changes to the Highway Performance Monitoring System that address—

“(I) improvements to the quality and standardization of data collection on all functional classifications of Federal-aid highways for accurate system length, lane length, and vehicle-mile of travel; and

“(II) changes to the reporting requirements authorized under section 315, to reflect recommendations under this paragraph for collection, storage, analysis, reporting, and display of data for Federal-aid highways.
and, to the maximum extent practical,

all public roads.

“(G) Exploring next generation sol-
lutions and capitalizing on the highway
research center.—

“(i) In general.—The Secretary
shall carry out research and development
activities relating to exploratory advanced
research—

“(I) to leverage the targeted ca-
pabilities of the Turner-Fairbank
Highway Research Center to develop
technologies and innovations of na-
tional importance; and

“(II) to develop potentially trans-
formational solutions to improve the
durability, efficiency, environmental
impact, productivity, and safety as-
psects of highway and intermodal
transportation systems.

“(ii) Contents.—Research and tech-
tonology activities carried out under this
subparagraph may include—
“(I) long-term, high-risk research to improve the materials used in highway infrastructure;

“(II) exploratory research to assess the effects of transportation decisions on human health;

“(III) advanced development of surrogate measures for highway safety;

“(IV) transformational research to affect complex environmental and highway system relationships;

“(V) development of economical and environmentally sensitive designs, efficient and quality-controlled construction practices, and durable materials;

“(VI) development of advanced data acquisition techniques for system condition and performance monitoring;

“(VII) inclusive research for hour-to-hour operational decision-making and simulation forecasting;
“(VIII) understanding current and emerging phenomena to inform next generation transportation policy decisionmaking; and

“(IX) continued improvement and advancement of the Turner-Fairbank Highway Research Center.

“(H) ALIGNING NATIONAL CHALLENGES AND DISSEMINATING INFORMATION.—

“(i) IN GENERAL.—The Secretary shall conduct research and development activities—

“(I) to establish a nationally coordinated highway research agenda that—

“(aa) focuses on topics of national significance;

“(bb) addresses current gaps in research;

“(cc) encourages collaboration;

“(dd) reduces unnecessary duplication of effort; and

“(ee) accelerates innovation delivery; and
“(II) to provide relevant information to researchers and highway and transportation practitioners to improve the performance of the transportation system.

“(ii) CONTENTS.—Research and technology activities carried out under this subparagraph may include—

“(I) coordination, development, and implementation of a national highway research agenda;

“(II) collaboration on national emphasis areas of highway research and coordination among international, Federal, State, and university research programs;

“(III) development and delivery of research reports and innovation delivery messages;

“(IV) identification of market-ready technologies and innovations;

and

“(V) provision of access to data developed under this subparagraph to the public, including researchers,
stakeholders, and customers, through
a publicly accessible Internet site.

“(c) Technology and Innovation Deployment Program.—

“(1) In General.—The Secretary shall carry out a technology and innovation deployment program relating to all aspects of highway transportation, including planning, financing, operation, structures, materials, pavements, environment, construction, and the duration of time between project planning and project delivery, with the goals of—

“(A) significantly accelerating the adoption of innovative technologies by the surface transportation community;

“(B) providing leadership and incentives to demonstrate and promote state-of-the-art technologies, elevated performance standards, and new business practices in highway construction processes that result in improved safety, faster construction, reduced congestion from construction, and improved quality and user satisfaction;

“(C) constructing longer-lasting highways through the use of innovative technologies and
practices that lead to faster construction of efficient and safe highways and bridges;

“(D) improving highway efficiency, safety, mobility, reliability, service life, environmental protection, and sustainability; and

“(E) developing and deploying new tools, techniques, and practices to accelerate the adoption of innovation in all aspects of highway transportation.

“(2) IMPLEMENTATION.—

“(A) IN GENERAL.—The Secretary shall promote, facilitate, and carry out the program established under paragraph (1) to distribute the products, technologies, tools, methods, or other findings that result from highway research and development activities, including research and development activities carried out under this chapter.

“(B) Accelerated innovation deployment.—In carrying out the program established under paragraph (1), the Secretary shall—

“(i) establish and carry out demonstration programs;
“(ii) provide incentives, technical assistance, and training to researchers and developers; and

“(iii) develop improved tools and methods to accelerate the adoption of proven innovative practices and technologies as standard practices.

“(C) IMPLEMENTATION OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM FINDINGS AND RESULTS.—

“(i) IN GENERAL.—The Secretary, in consultation with the American Association of State Highway and Transportation Officials and the Transportation Research Board of the National Academy of Sciences, shall implement the findings and recommendations developed under the future strategic highway research program established under section 510.

“(ii) BASIS FOR FINDINGS.—The activities carried out under this subparagraph shall be based on the report submitted to Congress by the Transportation Research Board of the National Academy of Sciences under section 510(e).
“(iii) PERSONNEL.—The Secretary may use funds made available to carry out this subsection for administrative costs under this subparagraph, which funds shall be used in addition to any other funds made available for that purpose.

“(iv) FEES.—

“(I) IN GENERAL.—The Secretary may impose and collect fees to recover costs associated with special data or analysis requests relating to safety naturalistic driving databases developed under the future of strategic highway research program.

“(II) USE OF FEE AMOUNTS.—

“(aa) IN GENERAL.—Any fees collected under this clause shall be made available to the Secretary to carry out this section and shall remain available for expenditure until expended.

“(bb) SUPPLEMENT, NOT SUPPLANT.—Any fee amounts collected under this clause shall supplement, but not supplant,
amounts made available to the Secretary to carry out this title.

“(d) AIR QUALITY AND CONGESTION MITIGATION MEASURE OUTCOMES ASSESSMENT RESEARCH.—

“(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall carry out a research program to examine the outcomes of actions funded under the congestion mitigation and air quality improvement program since the enactment of the SAFETEA-LU (Public Law 109–59).

“(2) GOALS.—The goals of the program shall include—

“(A) the assessment and documentation, through outcomes research conducted on a representative sample of cases, of—

“(i) the emission reductions achieved by federally supported surface transportation actions intended to reduce emissions or lessen traffic congestion; and

“(ii) the air quality and human health impacts of those actions, including potential unrecognized or indirect consequences, attributable to those actions;
“(B) an expanded base of empirical evidence on the air quality and human health impacts of actions described in paragraph (1); and

“(C) an increase in knowledge of—

“(i) the factors determining the air quality and human health changes associated with transportation emission reduction actions; and

“(ii) other information to more accurately understand the validity of current estimation and modeling routines and ways to improve those routines.

“(3) Administrative Elements.—To carry out this subsection, the Secretary shall—

“(A) make a grant for the coordination, selection, management, and reporting of component studies to an independent scientific research organization with the necessary experience in successfully conducting accountability and other studies on mobile source air pollutants and associated health effects;

“(B) ensure that case studies are identified and conducted by teams selected through a competitive solicitation overseen by an independent committee of unbiased experts; and
“(C) ensure that all findings and reports are peer-reviewed and published in a form that presents the findings together with reviewer comments.

“(4) REPORT.—The Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

“(A) not later than 1 year after the date of enactment of the MAP–21, and for the following year, a report providing an initial scoping and plan, and status updates, respectively, for the program under this subsection; and

“(B) not later than 2 years after the date of enactment of the MAP–21, a final report that describes the findings of, and recommendations resulting from, the program under this subsection.

“(5) FUNDING.—Of the amounts made available to carry out this section, the Secretary shall make available to carry out this subsection not more than $1,000,000 for each fiscal year.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by
striking the item relating to section 503 and inserting the
following:

“503. Research and technology development and deployment.”.

SEC. 2204. TRAINING AND EDUCATION.

Section 504 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2)(A) by inserting “and
the employees of any other applicable Federal
agency” before the semicolon at the end;

(B) in paragraph (3)(A)(ii)(V) by striking
“expediting” and inserting “reducing the
amount of time required for”; 

(C) by striking paragraph (4);

(D) by redesignating paragraphs (5)
through (8) as paragraphs (4) through (7), re-
spectively; and

(E) in paragraph (7) (as redesignated by
subparagraph (D)) by striking “paragraph (7)”
and inserting “paragraph (6)”;

(2) in subsection (b) by striking paragraph (3)
and inserting the following:

“(3) FEDERAL SHARE.—

“(A) LOCAL TECHNICAL ASSISTANCE CEN-
TERS.—
“(i) IN GENERAL.—Subject to subparagraph (B), the Federal share of the cost of an activity carried out by a local technical assistance center under paragraphs (1) and (2) shall be 50 percent.

“(ii) NON-FEDERAL SHARE.—The non-Federal share of the cost of an activity described in clause (i) may consist of amounts provided to a recipient under subsection (e) or section 505, up to 100 percent of the non-Federal share.

“(B) TRIBAL TECHNICAL ASSISTANCE CENTERS.—The Federal share of the cost of an activity carried out by a tribal technical assistance center under paragraph (2)(D)(ii) shall be 100 percent.”;

(3) in subsection (c)(2)—

(A) by striking “The Secretary” and inserting the following:

“(A) IN GENERAL.—The Secretary”;

(B) in subparagraph (A) (as designated by subparagraph (A)) by striking “. The program” and inserting “, which program”; and

(C) by adding at the end the following:
“(B) USE OF AMOUNTS.—Amounts provided to institutions of higher education to carry out this paragraph shall be used to provide direct support of student expenses.”;

(4) in subsection (e)(1)—

(A) in the matter preceding subparagraph (A) by striking “sections 104(b)(1), 104(b)(2), 104(b)(3), 104(b)(4), and 144(e)” and inserting “paragraphs (1) through (4) of section 104(b)”;

(B) in subparagraph (D) by striking “and” at the end;

(C) in subparagraph (E) by striking the period and inserting a semicolon; and

(D) by adding at the end the following:

“(F) meetings of transportation professionals that include education and professional development activities;

“(G) activities carried out by the National Highway Institute under subsection (a); and

“(H) local technical assistance programs under subsection (b).”;
(6) in subsection (g)(4)(F) by striking “excellence” and inserting “stewardship”; and

(7) by adding at the end the following:

“(h) REGIONAL SURFACE WORKFORCE DEVELOPMENT CENTERS.—

“(1) In general.—The Secretary may make grants under this section to nonprofit institutions of higher education to establish and operate 5 regional workforce development centers.

“(2) Use of amounts.—

“(A) In general.—Amounts made available under this subsection shall be used by a recipient to identify, promote, and advance programs and activities that provide for a skilled, technically competent surface transportation workforce, including—

“(i) programs carried out through elementary and secondary schools;

“(ii) programs carried out through community colleges; and

“(iii) technical training and apprenticeship programs that are carried out in coordination with labor organizations, employers, and other relevant stakeholders.
“(B) Optional use.—Amounts made available under this subsection may be used to support professional development activities for in-service transportation workers.

“(B) Consultation.—In carrying out this subsection, each regional workforce development center shall consult with stakeholders in the education and transportation communities, including organizations representing the interests of—

“(A) elementary and secondary schools;

“(B) institutions of higher education;

“(C) in-service transportation workers; and

“(D) transportation professionals.

“(i) Centers for Surface Transportation Excellence.—

“(h) Centers for Surface Transportation Excellence.—

“(1) In general.—The Secretary may make grants under this section to establish and maintain centers for surface transportation excellence.

“(2) Goals.—The goals of a center referred to in paragraph (1) shall be to promote and support strategic national surface transportation programs and activities relating to the work of State departments of transportation in the areas of environment, surface...
SEC. 2205. STATE PLANNING AND RESEARCH.

Section 505 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1) by striking “section 104 (other than sections 104(f) and 104(h)) and under section 144” and inserting “paragraphs (1) through (5) of section 104(b)”;

(B) in paragraph (3) by striking “under section 303” and inserting “, plans, and processes under sections 119, 148, 149, and 167”;

(2) in subsection (b)—

(A) in paragraph (1) by striking “25” and inserting “24”; and

(B) in paragraph (2) by striking “75 percent of the funds described in paragraph (1)” and inserting “70 percent of the funds described in subsection (a)”;

(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(4) by inserting after subsection (b) the following:
“(c) Implementation of Future Strategic Highway Research Program Findings and Results.—

“(1) Funds.—Not less than 6 percent of the funds subject to subsection (a) that are apportioned to a State for a fiscal year shall be made available to the Secretary to carry out section 503(c)(2)(C).

“(2) Treatment of Funds.—Funds expended under paragraph (1) shall not be considered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638).”; and

(5) in paragraph (e) (as so redesignated) by striking “section 118(b)(2)” and inserting “section 118(b)”.

SEC. 2206. INTERNATIONAL HIGHWAY TRANSPORTATION PROGRAM.

Section 506 of title 23, United States Code, is repealed.

SEC. 2207. SURFACE TRANSPORTATION ENVIRONMENTAL COOPERATIVE RESEARCH PROGRAM.

Section 507 of title 23, United States Code, is repealed.
SEC. 2208. NATIONAL COOPERATIVE FREIGHT RESEARCH.

Section 509(d) of title 23, United States Code, is amended by adding at the end the following:

“(6) COORDINATION OF COOPERATIVE RESEARCH.—The National Academy of Sciences shall coordinate research agendas, research project selections, and competitions across all transportation-related cooperative research programs carried out by the National Academy of Sciences to ensure program efficiency, effectiveness, and the dissemination of research findings.”.

SEC. 2209. UNIVERSITY TRANSPORTATION CENTERS PROGRAM.

(a) IN GENERAL.—Section 5505 of title 49, United States Code, is amended to read as follows:

“§ 5505. University transportation centers program

“(a) UNIVERSITY TRANSPORTATION CENTERS PROGRAM.—

“(1) ESTABLISHMENT AND OPERATION.—The Secretary shall make grants under this section to eligible nonprofit institutions of higher education to establish and operate university transportation centers.

“(2) ROLE OF CENTERS.—The role of each university transportation center referred to in paragraph (1) shall be—
“(A) to advance transportation expertise and technology in the varied disciplines that comprise the field of transportation through education, research, and technology transfer activities;

“(B) to provide for a critical transportation knowledge base outside of the Department of Transportation; and

“(C) to address critical workforce needs and educate the next generation of transportation leaders.

“(b) COMPETITIVE SELECTION PROCESS.—

“(1) Applications.—To receive a grant under this section, a nonprofit institution of higher education shall submit to the Secretary an application that is in such form and contains such information as the Secretary may require.

“(2) General selection criteria.—

“(A) In general.—Except as otherwise provided by this section, the Secretary shall award grants under this section in nonexclusive candidate topic areas established by the Secretary that address the research priorities identified in section 503 of title 23.
“(B) CRITERIA.—The Secretary, in conjunction with the Administrators of the Federal Highway Administration and the Federal Transit Administration, shall select each recipient of a grant under this section through a competitive process based on the assessment of the Secretary relating to—

“(i) the demonstrated ability of the recipient to address each specific topic area described in the research and strategic plans of the recipient;

“(ii) the demonstrated research, technology transfer, and education resources available to the recipient to carry out this section;

“(iii) the ability of the recipient to provide leadership in solving immediate and long-range national and regional transportation problems;

“(iv) the ability of the recipient to carry out research, education, and technology transfer activities that are multimodal and multidisciplinary in scope;

“(v) the demonstrated commitment of the recipient to carry out transportation
workforce development programs through—

“(I) degree-granting programs;

“(II) training seminars for practicing professionals;

“(III) outreach activities to attract new entrants into the transportation field, including women, minorities, and persons from disadvantaged communities; and

“(IV) primary and secondary school transportation workforce outreach;

“(vi) the demonstrated ability of the recipient to disseminate results and spur the implementation of transportation research and education programs through national or statewide continuing education programs;

“(vii) the demonstrated commitment of the recipient to the use of peer review principles and other research best practices in the selection, management, and dissemination of research projects;
“(viii) the strategic plan submitted by the recipient describing the proposed research to be carried out by the recipient and the performance metrics to be used in assessing the performance of the recipient in meeting the stated research, technology transfer, education, and outreach goals; and

“(ix) the ability of the recipient to implement the proposed program in a cost-efficient manner, such as through cost sharing and overall reduced overhead, facilities, and administrative costs.

“(c) GRANTS.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of the MAP-21, the Secretary, in conjunction with the Administrators of the Federal Highway Administration and the Federal Transit Administration, shall select grant recipients under subsection (b) and make grant amounts available to the selected recipients.

“(2) TIER 1 UNIVERSITY TRANSPORTATION CENTERS.—

“(A) IN GENERAL.—For each of fiscal years 2012 and 2013 and subject to subpara-
graph (B), the Secretary shall provide grants to not more than 15 recipients that the Secretary determines best meet the criteria described in subsection (b)(2).

“(B) Restrictions.—

“(i) In general.—For each fiscal year, a grant made available under this paragraph shall not exceed $3,500,000 per recipient.

“(ii) Focused research.—At least 2 of the recipients awarded a grant under this paragraph shall have expertise in, and focus research on, public transportation issues.

“(C) Matching requirement.—

“(i) In general.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 100 percent of the amounts made available under the grant.

“(ii) Sources.—The matching amounts referred to in clause (i) may include amounts made available to the recipient under—
“(I) section 504(b) or 505 of title 23; and

“(II) subject to prior approval by the Secretary, a transportation-related grant from the National Science Foundation.

“(3) Tier 2 University Transportation Centers.—

“(A) In general.—For each of fiscal years 2012 and 2013, the Secretary shall provide grants of not more than $2,000,000 each to not more than 20 recipients to carry out this section.

“(B) Restriction.—A grant recipient under paragraph (2) shall not be eligible to receive a grant under this paragraph.

“(C) Matching requirement.—

“(i) In general.—As a condition of receiving a grant under this paragraph, a grant recipient shall match 50 percent of the amounts made available under the grant.

“(ii) Sources.—The matching amounts referred to in clause (i) may in-
clude amounts made available to the recipient under—

“(I) section 504(b) or 505 of title 23; and

“(II) subject to prior approval by the Secretary, a transportation-related grant from the National Science Foundation.

“(D) FOCUSED RESEARCH.—In awarding grants under this paragraph, consideration shall be given to minority institutions, as defined by section 365(3) of the Higher Education Act (20 U.S.C. Sec. 1067k), or consortia that include such institutions that have demonstrated an ability in transportation-related research and for which the requirements of subparagraph. The requirements of subsection (c)(3)(C) shall not apply upon demonstration of financial hardship by the applicant institution.

“(d) PROGRAM COORDINATION.—

“(1) IN GENERAL.—The Secretary shall—

“(A) coordinate the research, education, and technology transfer activities carried out by grant recipients under this section; and
“(B) disseminate the results of that research through the establishment and operation of an information clearinghouse.

“(2) ANNUAL REVIEW AND EVALUATION.—Not less frequently than annually, and consistent with the plan developed under section 508 of title 23, the Secretary shall review and evaluate the programs carried out under this section by grant recipients.

“(3) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2012 and 2013, the Secretary shall expend not more than 1½ percent of the amounts made available to the Secretary to carry out this section for any coordination, evaluation, and oversight activities of the Secretary under this section and section 5506.

“(e) LIMITATION ON AVAILABILITY OF AMOUNTS.—Amounts made available to the Secretary to carry out this section shall remain available for obligation by the Secretary for a period of 3 years after the last day of the fiscal year for which the amounts are appropriated.

“(f) INFORMATION COLLECTION.—Any survey, questionnaire, or interview that the Secretary determines to be necessary to carry out reporting requirements relating to any program assessment or evaluation activity under
this section, including customer satisfaction assessments, shall not be subject to chapter 35 of title 44.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 55 of title 49, United States Code, is amended by striking the item relating to section 5505 and inserting the following:

“Sec. 5505. University transportation centers program.”.

SEC. 2210. BUREAU OF TRANSPORTATION STATISTICS.

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

“CHAPTER 63—BUREAU OF TRANSPORTATION STATISTICS

§ 6301. Definitions.

“In this chapter, the following definitions apply:

“(1) BUREAU.—The term ‘Bureau’ means the Bureau of Transportation Statistics established by section 6302(a).
“(2) Department.—The term ‘Department’ means the Department of Transportation.

“(3) Director.—The term ‘Director’ means the Director of the Bureau.

“(4) Library.—The term ‘Library’ means the National Transportation Library established by section 6304(a).

“(5) Secretary.—The term ‘Secretary’ means the Secretary of Transportation.

§ 6302. Bureau of Transportation Statistics.

“(a) Establishment.—There is established in the Research and Innovative Technology Administration the Bureau of Transportation Statistics.

“(b) Director.—

“(1) Appointment.—The Bureau shall be headed by a Director, who shall be appointed in the competitive service by the Secretary.

“(2) Qualifications.—The Director shall be appointed from among individuals who are qualified to serve as the Director by virtue of training and experience in the collection, analysis, and use of transportation statistics.

“(3) Duties.—

“(A) In general.—The Director shall—
“(i) serve as the senior advisor to the Secretary on data and statistics; and

“(ii) be responsible for carrying out the duties described in subparagraph (B).

“(B) DUTIES.—The Director shall—

“(i) ensure that the statistics compiled under clause (vi) are designed to support transportation decisionmaking by—

“(I) the Federal Government;

“(II) State and local governments;

“(III) metropolitan planning organizations;

“(IV) transportation-related associations;

“(V) the private sector, including the freight community; and

“(VI) the public;

“(ii) establish on behalf of the Secretary a program—

“(I) to effectively integrate safety data across modes; and

“(II) to address gaps in existing Department safety data programs;
“(iii) work with the operating administra-

istrations of the Department—

“(I) to establish and implement

the data programs of the Bureau; and

“(II) to improve the coordination

of information collection efforts with

other Federal agencies;

“(iv) evaluate and update as nec-

essary surveys and data collection methods

of the Department on a continual basis to

improve the accuracy and utility of trans-

portation statistics;

“(v) encourage the standardization of

data, data collection methods, and data

management and storage technologies for

data collected by—

“(I) the Bureau;

“(II) the operating administra-

tions of the Department;

“(III) State and local govern-

ments;

“(IV) metropolitan planning or-

ganizations; and

“(V) private sector entities;
“(vi) collect, compile, analyze, and publish a comprehensive set of transportation statistics on the performance and impacts of the national transportation system, including statistics on—

“(I) transportation safety across all modes and intermodally;

“(II) the state of good repair of United States transportation infrastructure;

“(III) the extent, connectivity, and condition of the transportation system, building on the national transportation atlas database developed under section 6310;

“(IV) economic efficiency across the entire transportation sector;

“(V) the effects of the transportation system on global and domestic economic competitiveness;

“(VI) demographic, economic, and other variables influencing travel behavior, including choice of transportation mode and goods movement;
“(VII) transportation-related variables that influence the domestic economy and global competitiveness;

“(VIII) economic costs and impacts for passenger travel and freight movement;

“(IX) intermodal and multimodal passenger movement;

“(X) intermodal and multimodal freight movement; and

“(XI) consequences of transportation for the human and natural environment;

“(vii) build and disseminate the transportation layer of the National Spatial Data Infrastructure developed under Executive Order 12906 (59 Fed. Reg. 17671) (or a successor Executive Order), including by coordinating the development of transportation geospatial data standards, compiling intermodal geospatial data, and collecting geospatial data that is not being collected by other entities;

“(viii) issue guidelines for the collection of information by the Department
that the Director determines necessary to
develop transportation statistics and carry
out modeling, economic assessment, and
program assessment activities to ensure
that the information is accurate, reliable,
relevant, uniform, and in a form that per-
mits systematic analysis by the Depart-
ment;

“(ix) review and report to the Sec-
retary on the sources and reliability of—

“(I) the statistics proposed by
the heads of the operating administra-
tions of the Department to measure
outputs and outcomes as required
under the Government Performance
and Results Act of 1993 (Public Law
103–62;107 Stat. 285); and

“(II) at the request of the Sec-
retary, any other data collected or sta-
tistical information published by the
heads of the operating administrations
of the Department; and

“(x) ensure that the statistics pub-
lished under this section are readily acces-
sible to the public.
“(c) Access to Federal Data.—In carrying out subsection (b)(3)(B)(ii), the Director shall be given access to all safety data that the Director determines necessary to carry out that subsection that is held by the Department or any other Federal agency.

§ 6303. Intermodal Transportation Database

“(a) In General.—In consultation with the Under Secretary Transportation for Policy, the Assistant Secretaries of the Department, and the heads of the operating administrations of the Department, the Director shall establish and maintain a transportation database for all modes of transportation.

“(b) Use.—The database shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.

“(c) Contents.—The database shall include—

“(1) information on the volumes and patterns of movement of goods, including local, interregional, and international movement, by all modes of transportation, intermodal combination, and relevant classification;

“(2) information on the volumes and patterns of movement of people, including local, interregional, and international movements, by all modes of trans-
portation (including bicycle and pedestrian modes),
intermodal combination, and relevant classification;
“(3) information on the location and
connectivity of transportation facilities and services;
and
“(4) a national accounting of expenditures and
capital stocks on each mode of transportation and
intermodal combination.

§ 6304. National transportation library
“(a) Purpose and Establishment.—To support
the information management and decisionmaking needs of
transportation officials at the Federal, State, and local lev-
els, there is established in the Bureau of Transportation
Statistics a National Transportation Library that shall—
“(1) be headed by an individual who is highly
qualified in library and information science;
“(2) acquire, preserve, and manage transpor-
tation information and information products and
services for use by the Department, other Federal
agencies, and the general public;
“(3) provide reference and research assistance;
“(4) serve as a central depository for research
results and technical publications of the Depart-
ment;
“(5) provide a central clearinghouse for transportation data and information of the Federal Government;

“(6) serve as coordinator and policy lead for transportation information access;

“(7) provide transportation information and information products and services to—

“(A) the Department;

“(B) other Federal agencies;

“(C) public and private organizations; and

“(D) individuals, within the United States as well as internationally;

“(8) coordinate efforts among, and cooperate with, transportation libraries, information providers, and technical assistance centers, with the goal of developing a comprehensive transportation information and knowledge network that supports the activities described in section 6302(b)(3)(B); and

“(9) engage in such other activities as the Director determines to be necessary and as the resources of the Library permit.

“(b) Access.—The Director shall publicize, facilitate, and promote access to the information products and services described in subsection (a), with the goal of improving the ability of the transportation community to
share information and the ability of the Director to make statistics and other information readily accessible as required under section 6302(b)(3)(B)(x).

“(c) AGREEMENTS.—

“(1) IN GENERAL.—To carry out this section, the Director may enter into agreements with, provide grants to, and receive amounts from, any—

“(A) State or local government;

“(B) organization;

“(C) business; or

“(D) individual.

“(2) CONTRACTS, GRANTS, AND AGREEMENTS.—The Library may initiate and support specific information and data management, access, and exchange activities relating to the strategic goals of the Department, knowledge networking, and national and international cooperation, by entering into contracts or other agreements or providing grants.

“(3) AMOUNTS.—Any amounts received by the Library as payment for library products and services or other activities shall be made available to the Director to carry out this section and remain available until expended.
§ 6305. Advisory council on transportation statistics

(a) IN GENERAL.—The Director shall establish and consult with an advisory council on transportation statistics.

(b) FUNCTION.—The function of the advisory council established under this subsection is to advise the Director on—

(1) the quality, reliability, consistency, objectivity, and relevance of transportation statistics and analyses collected, supported, or disseminated by the Bureau and the Department; and

(2) methods to encourage cooperation and interoperability of transportation data collected by the Bureau, the operating administrations of the Department, States, local governments, metropolitan planning organizations, and private sector entities.

(c) MEMBERSHIP.—The advisory council shall be composed of not fewer than 9 and not more than 11 members appointed by the Director, who shall not be officers or employees of the United States.

(d) TERMS OF APPOINTMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the advisory council shall be appointed to staggered terms not to exceed 3 years.

(2) ADDITIONAL TERMS.—A member may be renominated for 1 additional 3-year term.
“(3) Previous Members.—A member serving on an advisory council on transportation statistics on the day before the date of enactment of the MAP-21 shall serve until the end of the appointed term of the member.

“(e) Applicability of Federal Advisory Committee Act.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the advisory council established under this section, except that section 14 of that Act shall not apply.

“§ 6306. Transportation statistical collection, analysis, and dissemination

“To ensure that all transportation statistical collection, analysis, and dissemination is carried out in a coordinated manner, the Director may—

“(1) use the services, equipment, records, personnel, information, and facilities of other Federal agencies, or State, local, and private agencies and instrumentalities, subject to the conditions that the applicable agency or instrumentality consents to that use;

“(2) enter into agreements with the agencies and instrumentalities described in paragraph (1) for purposes of data collection and analysis;
“(3) confer and cooperate with foreign governments, international organizations, and State, municipal, and other local agencies;

“(4) request such information, data, and reports from any Federal agency as the Director determines necessary to carry out this chapter;

“(5) encourage replication, coordination, and sharing of information among transportation agencies regarding information systems, information policy, and data; and

“(6) confer and cooperate with Federal statistical agencies as the Director determines necessary to carry out this chapter, including by entering into cooperative data sharing agreements in conformity with all laws and regulations applicable to the disclosure and use of data.

“§ 6307. Furnishing of information, data, or reports by Federal agencies

“(a) IN GENERAL.—Except as provided in subsection (b), a Federal agency requested to furnish information, data, or reports by the Director under section 6302(b)(3)(B) shall provide the information to the Director.

“(b) PROHIBITION ON CERTAIN DISCLOSURES.—
“(1) IN GENERAL.—An officer, employee, or contractor of the Bureau may not—

“(A) make any disclosure in which the data provided by an individual or organization under section 6302(b)(3)(B) can be identified;

“(B) use the information provided under section 6302(b)(3)(B) for a nonstatistical purpose; or

“(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under section 6302(b)(3)(B).

“(2) COPIES OF REPORTS.—

“(A) IN GENERAL.—No department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this chapter) may require, for any reason, a copy of any report that has been filed under section 6302(b)(3)(B) with the Bureau or retained by an individual respondent.

“(B) LIMITATION ON JUDICIAL PROCEEDINGS.—A copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau
or any of the employees, contractors, or agents of the Bureau—

“(i) shall be immune from legal process; and

“(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

“(C) APPLICABILITY.—This paragraph shall apply only to reports that permit information concerning an individual or organization to be reasonably determined by direct or indirect means.

“(3) INFORMING RESPONDENT OF USE OF DATA.—If the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and on the collection instrument, in a manner that informs the respondent who is requested or required to supply the data or information of the nonstatistical purpose.

“(c) TRANSPORTATION AND TRANSPORTATION-RELATED DATA ACCESS.—Except as expressly prohibited by
law, the Director shall have access to any transportation
and transportation-related information in the possession
of any Federal agency.

“§ 6308. Proceeds of data product sales
“Notwithstanding section 3302 of title 31, amounts
received by the Bureau from the sale of data products for
necessary expenses incurred may be credited to the High-
way Trust Fund (other than the Mass Transit Account)
for the purpose of reimbursing the Bureau for those ex-
penses.

“§ 6309. Information collection
“As the head of an independent Federal statistical
agency, the Director may consult directly with the Office
of Management and Budget concerning any survey, ques-
tionnaire, or interview that the Director considers nec-
essary to carry out the statistical responsibilities of this
chapter.

“§ 6310. National transportation atlas database
“(a) IN GENERAL.—The Director shall develop and
maintain a national transportation atlas database that is
comprised of geospatial databases that depict—
“(1) transportation networks;
“(2) flows of people, goods, vehicles, and craft
over the transportation networks; and
“(3) social, economic, and environmental conditions that affect or are affected by the transportation networks.

“(b) INTERMODAL NETWORK ANALYSIS.—The databases referred to in subsection (a) shall be capable of supporting intermodal network analysis.

“§ 6311. Limitations on statutory construction

“Nothing in this chapter—

“(1) authorizes the Bureau to require any other Federal agency to collect data; or

“(2) alters or diminishes the authority of any other officer of the Department to collect and disseminate data independently.

“§ 6312. Research and development grants

“The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and non-profit private entities (including State transportation departments, metropolitan planning organizations, and institutions of higher education) for—

“(1) investigation of the subjects described in section 6302(b)(3)(B)(vi);

“(2) research and development of new methods of data collection, standardization, management, integration, dissemination, interpretation, and analysis;
“(3) demonstration programs by States, local
governments, and metropolitan planning organiza-
tions to coordinate data collection, reporting, man-
agement, storage, and archiving to simplify data
comparisons across jurisdictions;

“(4) development of electronic clearinghouses of
transportation data and related information, as part
of the Library; and

“(5) development and improvement of methods
for sharing geographic data, in support of the data-
base under section 6310 and the National Spatial
Data Infrastructure developed under Executive
Order 12906 (59 Fed. Reg. 17671) (or a successor
Executive Order).

§6313. Transportation statistics annual report

“The Director shall submit to the President and Con-
gress a transportation statistics annual report, which shall
include—

“(1) information on the progress of the Direc-
tor in carrying out the duties described in section
6302(b)(3)(B);

“(2) documentation of the methods used to ob-
tain and ensure the quality of the statistics pre-
sented in the report; and
“(3) any recommendations of the Director for improving transportation statistical information.

“§6314. Mandatory response authority for freight data collection.

“(a) In General.—An owner, official, agent, person

“(a) Freight Data Collection.—

“(1) In General.—An owner, official, agent, person in charge, or assistant to the person in charge of any a freight corporation, company, business, institution, establishment, or organization described in paragraph (2) shall be fined in accordance with subsection (b) if that individual neglects or refuses, when requested by the Director or other authorized officer, employee, or contractor of the Bureau to submit data under section 6302(b)(3)(B)—

“(1) to answer completely and correctly to the

“(A) to answer completely and correctly to the best knowledge of that individual all questions relating to the corporation, company, business, institution, establishment, or other organization; or

“(2) to make available records or statistics in

“(B) to make available records or statistics in the official custody of the individual.
“(2) DESCRIPTION OF ENTITIES.—A freight cor-
poration, company, business, institution, establish-
ment, or organization referred to in paragraph (1) is
a corporation, company, business, institution, estab-
lishment, or organization that—

“(A) receives Federal funds relating to the
freight program; and

“(B) has consented to be subject to a fine
under this subsection on—

“(i) refusal to supply any data re-
quested; or

“(ii) failure to respond to a written re-
quest.

“(b) FINES.—

“(1) IN GENERAL.—Subject to paragraph (2),
an individual described in subsection (a) shall be
fined not more than $500.

“(2) WILLFUL ACTIONS.—If an individual will-
fully gives a false answer to a question described in
subsection (a)(1), the individual shall be fined not
more than $10,000.”.

(b) RULES OF CONSTRUCTION.—If the provisions of
section 111 of title 49, United States Code, are trans-
ferred to chapter 63 of that title, the following rules of
construction apply:
(1) For purposes of determining whether 1 provision of law supersedes another based on enactment later in time, a chapter 63 provision is deemed to have been enacted on the date of enactment of the corresponding section 111 provision.

(2) A reference to a section 111 provision, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding chapter 63 provision.

(3) A regulation, order, or other administrative action in effect under a section 111 provision continues in effect under the corresponding chapter 63 provision.

(4) An action taken or an offense committed under a section 111 provision is deemed to have been taken or committed under the corresponding chapter 63 provision.

(c) CONFORMING AMENDMENTS.—

(1) REPEAL.—Section 111 of title 49, United States Code, is repealed, and the item relating to section 111 in the analysis of chapter 1 of that title is deleted.

(2) ANALYSIS OF SUBTITLE III.—The analysis for subtitle III of title 49, United States Code, is
amended by inserting after the items for chapter 61 the following:

“Chapter 63. Bureau of Transportation Statistics 

SEC. 2211. ADMINISTRATIVE AUTHORITY.

Section 112 of title 49, United States Code, is amended by adding at the end the following:

“(f) PROMOTIONAL AUTHORITY.—Amounts authorized to be appropriated for the administration and operation of the Research and Innovative Technology Administration may be used to purchase promotional items of nominal value for use by the Administrator of the Research and Innovative Technology Administration in the recruitment of individuals and promotion of the programs of the Administration.

“(g) PROGRAM EVALUATION AND OVERSIGHT.—For each of fiscal years 2012 and 2013, the Administrator may expend not more than 1 1⁄2 percent of the amounts authorized to be appropriated for the administration and operation of the Research and Innovative Technology Administration to carry out the coordination, evaluation, and oversight of the programs administered by the Administration.

“(h) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

“(1) IN GENERAL.—To encourage innovative solutions to multimodal transportation problems and
stimulate the deployment of new technology, the Administrator may carry out, on a cost-shared basis, collaborative research and development with—

“(A) non-Federal entities, including State and local governments, foreign governments, institutions of higher education, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State;

“(B) Federal laboratories; and

“(C) other Federal agencies.

“(2) Cooperation, grants, contracts, and agreements.—Notwithstanding any other provision of law, the Administrator may directly initiate contracts, grants, cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and other agreements to fund, and accept funds from, the Transportation Research Board of the National Research Council of the National Academy of Sciences, State departments of transportation, cities, counties, institutions of higher education, associations, and the agents of those entities to carry out joint transportation research and technology efforts.
“(3) Federal share.—

“(A) In general.—Subject to subparagraph (B), the Federal share of the cost of an activity carried out under paragraph (2) shall not exceed 50 percent.

“(B) Exception.—If the Secretary determines that the activity is of substantial public interest or benefit, the Secretary may approve a greater Federal share.

“(C) Non-Federal share.—All costs directly incurred by the non-Federal partners, including personnel, travel, facility, and hardware development costs, shall be credited toward the non-Federal share of the cost of an activity described in subparagraph (A).

“(4) Use of technology.—The research, development, or use of a technology under a contract, grant, cooperative research and development agreement, or other agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).
“(5) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract, grant, or other agreement entered into under this section.”.

SEC. 2212. TRANSPORTATION RESEARCH AND DEVELOPMENT STRATEGIC PLANNING.

Section 508(a)(2) of title 23, United States Code, is amended by striking subparagraph (A) and inserting the following:

“(A) describe the primary purposes of the transportation research and development program, which shall include, at a minimum—

“(i) promoting safety;

“(ii) reducing congestion and improving mobility;

“(iii) protecting and enhancing the environment;

“(iv) preserving the existing transportation system;

“(v) improving the durability and extending the life of transportation infrastructure; and

“(vi) improving goods movement;”.

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SEC. 2213. NATIONAL ELECTRONIC VEHICLE CORRIDORS
AND RECHARGING INFRASTRUCTURE NETWORK.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish a stakeholder-driven process to develop a plan and map of a potential national network of electric vehicle corridors and recharging infrastructure.

(b) REQUIREMENTS.—The plan under subsection (a) shall—

(1) project the near- and long-term need for and location of electric vehicle refueling infrastructure at strategic locations across all major national highways, roads, and corridors;

(2) identify infrastructure and standardization needs for electricity providers, infrastructure providers, vehicle manufacturers, and electricity purchasers; and

(3) establish an aspirational goal of achieving strategic deployment of electric vehicle infrastructure by 2020.

(c) STAKEHOLDERS.—In developing the plan under subsection (a), the Secretary shall involve, on a voluntary basis, stakeholders that include—

(1) the heads of other Federal agencies;

(2) State and local officials;
(3) representatives of—
(A) energy utilities;
(B) the vehicles industry;
(C) the freight and shipping industry;
(D) clean technology firms;
(E) the hospitality industry;
(F) the restaurant industry; and
(G) highway rest stop vendors; and
(4) such other stakeholders as the Secretary de-
termines to be necessary.

Subtitle C—Funding Intelligent
Transportation Systems Research

SEC. 2301. USE OF FUNDS FOR ITS ACTIVITIES.
Section 513 of title 23, United States Code, is
amended to read as follows:

“§ 513. Use of funds for ITS activities.
“(a) DEFINITIONS.—In this section, the following
definitions apply:
“(1) ELIGIBLE ENTITY.—The term ‘eligible en-
tity’ means a State or local government, tribal gov-
ernment, transit agency, public toll authority, metro-
politan planning organization, other political subdivi-
sion of a State or local government, or a multistate
or multijurisdictional group applying through a sin-
gle lead applicant.
“(2) MULTIJURISDICTIONAL GROUP.—The term ‘multijurisdictional group’ means a combination of State governments, local governments, metropolitan planning agencies, transit agencies, or other political subdivisions of a State that—

“(A) have signed a written agreement to implement an activity that meets the grant criteria under this section; and

“(B) is comprised of at least 2 members, each of whom is an eligible entity.

“(b) PURPOSE.—The purpose of this section is to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs.

“(c) ITS DEPLOYMENT INCENTIVES.—

“(1) IN GENERAL.—The Secretary may—

“(A) develop and implement incentives to accelerate deployment of ITS technologies and services within all funding programs authorized by the MAP-21; and

“(B) for each fiscal year, use amounts made available to the Secretary to carry out intelligent transportation systems outreach, including through the use of websites, public relations, displays, tours, and brochures.
“(2) Comprehensive Plan.—To carry out this section, the Secretary shall develop a detailed and comprehensive plan that addresses the manner in which incentives may be adopted through the existing deployment activities carried out by surface transportation modal administrations.

“(d) System Operations and ITS Deployment Grant Program.—

“(1) Establishment.—The Secretary shall establish a competitive grant program to accelerate the deployment, operation, systems management, intermodal integration, and interoperability of the ITS program and ITS-enabled operational strategies—

“(A) to measure and improve the performance of the surface transportation system;

“(B) to reduce traffic congestion and the economic and environmental impacts of traffic congestion;

“(C) to minimize fatalities and injuries;

“(D) to enhance mobility of people and goods;

“(E) to improve traveler information and services; and

“(F) to optimize existing roadway capacity.
“(2) APPLICATION.—To be considered for a grant under this subsection, an eligible entity shall submit an application to the Secretary that includes—

“(A) a plan to deploy and provide for the long-term operation and maintenance of intelligent transportation systems to improve safety, efficiency, system performance, and return on investment, such as—

“(i) real-time integrated traffic, transit, and multimodal transportation information;

“(ii) advanced traffic, freight, parking, and incident management systems;

“(iii) advanced technologies to improve transit and commercial vehicle operations;

“(iv) synchronized, adaptive, and transit preferential traffic signals;

“(v) advanced infrastructure condition assessment technologies; and

“(vi) other technologies to improve system operations, including ITS applications necessary for multimodal systems in-
integration and for achieving performance goals;

“(B) quantifiable system performance improvements, including—

“(i) reductions in traffic-related crashes, congestion, and costs;

“(ii) optimization of system efficiency;

and

“(iii) improvement of access to transportation services;

“(C) quantifiable safety, mobility, and environmental benefit projections, including data driven estimates of the manner in which the project will improve the transportation system efficiency and reduce traffic congestion in the region;

“(D) a plan for partnering with the private sector, including telecommunications industries and public service utilities, public agencies (including multimodal and multijurisdictional entities), research institutions, organizations representing transportation and technology leaders, and other transportation stakeholders;

“(E) a plan to leverage and optimize existing local and regional ITS investments; and
“(F) a plan to ensure interoperability of deployed technologies with other tolling, traffic management, and intelligent transportation systems.

“(3) SELECTION.—

“(A) IN GENERAL.—Not later than 1 year after the date of enactment of the MAP-21, the Secretary may provide grants to eligible entities under this section.

“(B) GEOGRAPHIC DIVERSITY.—In awarding a grant under this section, the Secretary shall ensure, to the maximum extent practicable, that grant recipients represent diverse geographical areas of the United States, including urban, suburban, and rural areas.

“(C) NON-FEDERAL SHARE.—In awarding a grant under the section, the Secretary shall give priority to grant recipients that demonstrate an ability to contribute a significant non-Federal share to the cost of carrying out the project for which the grant is received.

“(4) ELIGIBLE USES.—Projects for which grants awarded under this section may be used in—
“(A) the establishment and implementation of ITS and ITS-enabled operations strategies that improve performance in the areas of—

“(i) traffic operations;

“(ii) emergency response to surface transportation incidents;

“(iii) incident management;

“(iv) transit and commercial vehicle operations improvements;

“(v) weather event response management by State and local authorities;

“(vi) surface transportation network and facility management;

“(vii) construction and work zone management;

“(viii) traffic flow information;

“(ix) freight management; and

“(x) congestion management;

“(B) carrying out activities that support the creation of networks that link metropolitan and rural surface transportation systems into an integrated data network, capable of collecting, sharing, and archiving transportation system traffic condition and performance information;
“(C) the implementation of intelligent
transportation systems and technologies that
improve highway safety through information
and communications systems linking vehicles,
infrastructure, mobile devices, transportation
users, and emergency responders;

“(D) the provision of services necessary to
ensure the efficient operation and management
of ITS infrastructure, including costs associated
with communications, utilities, rent, hardware,
software, labor, administrative costs, training,
and technical services;

“(E) the provision of support for the es-
ablishment and maintenance of institutional
relationships between transportation agencies,
police, emergency medical services, private
emergency operators, freight operators, ship-
pers, and public service utilities public service
utilities, and telecommunications providers;

“(F) carrying out multimodal and
crossjurisdictional planning and deployment of
regional transportation systems operations and
management approaches; and

“(G) performing project evaluations to de-
terminethecosts,benefits,lessonslearned,and
future deployment strategies associated with the
deployment of intelligent transportation sys-
tems.

“(5) REPORT TO SECRETARY.—For each fiscal
year that an eligible entity receives a grant under
this section, not later than 1 year after receiving
that grant, each recipient shall submit a report to
the Secretary that describes how the project has met
the expectations projected in the deployment plan
submitted with the application, including—

“(A) data on how the program has helped
reduce traffic crashes, congestion, costs, and
other benefits of the deployed systems;

“(B) data on the effect of measuring and
improving transportation system performance
through the deployment of advanced tech-
nologies;

“(C) the effectiveness of providing real-
time integrated traffic, transit, and multimodal
transportation information to the public that al-
 lows the public to make informed travel deci-
sions; and

“(D) lessons learned and recommendations
for future deployment strategies to optimize
transportation efficiency and multimodal system performance.

“(6) Report to Congress.—Not later than 2 years after date on which the first grant is awarded under this section and annually thereafter for each fiscal year for which grants are awarded under this section, the Secretary shall submit to Congress a report that describes the effectiveness of the grant recipients in meeting the projected deployment plan goals, including data on how the grant program has—

“(A) reduced traffic-related fatalities and injuries;

“(B) reduced traffic congestion and improved travel time reliability;

“(C) reduced transportation-related emissions;

“(D) optimized multimodal system performance;

“(E) improved access to transportation alternatives;

“(F) provided the public with access to real-time integrated traffic, transit, and multimodal transportation information to make informed travel decisions;
“(G) provided cost savings to transportation agencies, businesses, and the traveling public; and

“(H) provided other benefits to transportation users and the general public.

“(7) ADDITIONAL GRANTS.—If the Secretary determines, based on a report submitted under paragraph (5), that a grant recipient is not complying with the established grant criteria, the Secretary may—

“(A) cease payment to the recipient of any remaining grant amounts; and

“(B) redistribute any remaining amounts to other eligible entities under this section.

“(8) NON-FEDERAL SHARE.—The Federal share of a grant under this section shall not exceed 50 percent of the cost of the project.

“(9) GRANT LIMITATION.—The Secretary may not award more than 10 percent of the amounts provided under this section to a single grant recipient in any fiscal year.

“(10) MULTIYEAR GRANTS.—Subject to availability of amounts, the Secretary may provide an eligible entity with grant amounts for a period of multiple fiscal years.
“(11) FUNDING.—Of the funds authorized to be appropriated to carry out the intelligent transportation system program under sections 512 through 518, not less than 50 percent of such funds shall be used to carry out this subsection.”.

SEC. 2302. GOALS AND PURPOSES.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 513 the following:

“§ 514. Goals and purposes

“(a) GOALS.—The goals of the intelligent transportation system program include—

“(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade to enable existing facilities to meet a significant portion of future transportation needs, including public access to employment, goods, and services and to reduce regulatory, financial, and other transaction costs to public agencies and system users;

“(2) achievement of national transportation safety goals, including enhancement of safe operation of motor vehicles and nonmotorized vehicles and improved emergency response to collisions, with
particular emphasis on decreasing the number and severity of collisions;

“(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments to achieve national environmental goals;

“(4) accommodation of the needs of all users of surface transportation systems, including operators of commercial motor vehicles, passenger motor vehicles, motorcycles, bicycles, and pedestrians (including individuals with disabilities); and

“(5) enhancement of national defense mobility and improvement of the ability of the United States to respond to security-related or other manmade emergencies and natural disasters.

“(b) PURPOSES.—The Secretary shall implement activities under the intelligent transportation system program, at a minimum—

“(1) to expedite, in both metropolitan and rural areas, deployment and integration of intelligent transportation systems for consumers of passenger and freight transportation;

“(2) to ensure that Federal, State, and local transportation officials have adequate knowledge of
intelligent transportation systems for consideration
in the transportation planning process;

“(3) to improve regional cooperation and oper-
ations planning for effective intelligent transpor-
tation system deployment;

“(4) to promote the innovative use of private
resources in support of intelligent transportation
system development;

“(5) to facilitate, in cooperation with the motor
vehicle industry, the introduction of vehicle-based
safety enhancing systems;

“(6) to support the application of intelligent
transportation systems that increase the safety and
efficiency of commercial motor vehicle operations;

“(7) to develop a workforce capable of devel-
oping, operating, and maintaining intelligent trans-
portation systems;

“(8) to provide continuing support for oper-
ations and maintenance of intelligent transportation
systems; and

“(9) to ensure a systems approach that includes
cooperation among vehicles, infrastructure, and
users.”.
(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 513 the following:

“514. Goals and purposes.”.

SEC. 2303. GENERAL AUTHORITIES AND REQUIREMENTS.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 514 (as added by section 2302) the following:

“§ 515. General authorities and requirements

“(a) SCOPE.—Subject to the provisions of this chapter, the Secretary shall conduct an ongoing intelligent transportation system program—

“(1) to research, develop, and operationally test intelligent transportation systems; and

“(2) to provide technical assistance in the nationwide application of those systems as a component of the surface transportation systems of the United States.

“(b) POLICY.—Intelligent transportation system research projects and operational tests funded pursuant to this chapter shall encourage and not displace public-private partnerships or private sector investment in those tests and projects.

“(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system pro-
gram in cooperation with State and local governments and other public entities, the private sector firms of the United States, the Federal laboratories, and institutions of higher education, including historically Black colleges and universities and other minority institutions of higher education.

“(d) Consultation With Federal Officials.—In carrying out the intelligent transportation system program, the Secretary shall consult with the heads of other Federal agencies, as appropriate.

“(e) Technical Assistance, Training, and Information.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

“(f) Transportation Planning.—The Secretary may provide funding to support adequate consideration of transportation systems management and operations, including intelligent transportation systems, within metropolitan and statewide transportation planning processes.

“(g) Information Clearinghouse.—

“(1) In general.—The Secretary shall—

“(A) maintain a repository for technical and safety data collected as a result of federally
sponsored projects carried out under this chapter; and

“(B) make, on request, that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

“(2) AGREEMENT.—

“(A) IN GENERAL.—The Secretary may enter into an agreement with a third party for the maintenance of the repository for technical and safety data under paragraph (1)(A).

“(B) FEDERAL FINANCIAL ASSISTANCE.—If the Secretary enters into an agreement with an entity for the maintenance of the repository, the entity shall be eligible for Federal financial assistance under this section.

“(3) AVAILABILITY OF INFORMATION.—Information in the repository shall not be subject to sections 552 and 555 of title 5, United States Code.

“(h) ADVISORY COMMITTEE.—

“(1) IN GENERAL.—The Secretary shall establish an Advisory Committee to advise the Secretary on carrying out this chapter.

“(2) MEMBERSHIP.—The Advisory Committee shall have no more than 20 members, be balanced
between metropolitan and rural interests, and include, at a minimum—

“(A) a representative from a State highway department;

“(B) a representative from a local highway department who is not from a metropolitan planning organization;

“(C) a representative from a State, local, or regional transit agency;

“(D) a representative from a metropolitan planning organization;

“(E) a private sector user of intelligent transportation system technologies;

“(F) an academic researcher with expertise in computer science or another information science field related to intelligent transportation systems, and who is not an expert on transportation issues;

“(G) an academic researcher who is a civil engineer;

“(H) an academic researcher who is a social scientist with expertise in transportation issues;
“(I) a representative from a nonprofit group representing the intelligent transportation system industry;

“(J) a representative from a public interest group concerned with safety;

“(K) a representative from a public interest group concerned with the impact of the transportation system on land use and residential patterns; and

“(L) members with expertise in planning, safety, telecommunications, utilities, and operations.

“(3) DUTIES.—The Advisory Committee shall, at a minimum, perform the following duties:

“(A) Provide input into the development of the intelligent transportation system aspects of the strategic plan under section 508.

“(B) Review, at least annually, areas of intelligent transportation systems research being considered for funding by the Department, to determine—

“(i) whether these activities are likely to advance either the state-of-the-practice or state-of-the-art in intelligent transportation systems;
“(ii) whether the intelligent transportation system technologies are likely to be deployed by users, and if not, to determine the barriers to deployment; and

“(iii) the appropriate roles for government and the private sector in investing in the research and technologies being considered.

“(4) REPORT.—Not later than February 1 of each year after the date of enactment of the MAP-21, the Secretary shall submit to Congress a report that includes—

“(A) all recommendations made by the Advisory Committee during the preceding calendar year;

“(B) an explanation of the manner in which the Secretary has implemented those recommendations; and

“(C) for recommendations not implemented, the reasons for rejecting the recommendations.

“(5) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Advisory Committee shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).
“(i) Reporting.—

“(1) Guidelines and requirements.—

“(A) In general.—The Secretary shall issue guidelines and requirements for the reporting and evaluation of operational tests and deployment projects carried out under this chapter.

“(B) Objectivity and independence.—

The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the reporting entity so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this chapter.

“(C) Funding.—The guidelines and requirements issued under subparagraph (A) shall establish reporting funding levels based on the size and scope of each test or project that ensure adequate reporting of the results of the test or project.

“(2) Special rule.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the reporting of any test, deploy-
ment project, or program assessment activity under this chapter shall not be subject to chapter 35 of title 44, United States Code.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 514 (as added by section 2302) the following:

“515. General authorities and requirements.”.

SEC. 2304. RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 515 (as added by section 2303) the following:

“§ 516. Research and development

“(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research and development, and operational tests of intelligent vehicles, intelligent infrastructure systems, and other similar activities that are necessary to carry out this chapter.

“(b) PRIORITY AREAS.—Under the program, the Secretary shall give higher priority to funding projects that—

“(1) enhance mobility and productivity through improved traffic management, incident management, transit management, freight management, road weather management, toll collection, traveler infor-
mation, or highway operations systems and remote sensing products;

“(2) use interdisciplinary approaches to develop traffic management strategies and tools to address multiple impacts of congestion concurrently;

“(3) address traffic management, incident management, transit management, toll collection traveler information, or highway operations systems;

“(4) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates;

“(5) enhance intermodal use of intelligent transportation systems for diverse groups, including for emergency and health-related services;

“(6) enhance safety through improved crash avoidance and protection, crash and other notification, commercial motor vehicle operations, and infrastructure-based or cooperative safety systems; or

“(7) facilitate the integration of intelligent infrastructure, vehicle, and control technologies.

“(c) FEDERAL SHARE.—The Federal share payable on account of any project or activity carried out under subsection (a) shall not exceed 80 percent.”.
(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 515 (as added by section 2304) the following:

“516. Research and development.”

SEC. 2305. NATIONAL ARCHITECTURE AND STANDARDS.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 516 (as added by section 2304) the following:

“§ 517. National architecture and standards.

“(a) In General.—

“(1) Development, implementation, and maintenance.—In accordance with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783; 115 Stat. 1241), the Secretary shall develop and maintain a national ITS architecture and supporting ITS standards and protocols to promote the use of systems engineering methods in the widespread deployment and evaluation of intelligent transportation systems as a component of the surface transportation systems of the United States.

“(2) Interoperability and efficiency.—To the maximum extent practicable, the national ITS architecture and supporting ITS standards and protocols shall promote interoperability among, and effi-
ciency of, intelligent transportation systems and technologies implemented throughout the United States.

“(3) Use of Standards Development Organizations.—In carrying out this section, the Secretary shall support the development and maintenance of standards and protocols using the services of such standards development organizations as the Secretary determines to be necessary and whose memberships are comprised of, and represent, the surface transportation and intelligent transportation systems industries.

“(b) Standards for National Policy Implementation.—If the Secretary finds that a standard is necessary for implementation of a nationwide policy relating to user fee collection or other capability requiring nationwide uniformity, the Secretary, after consultation with stakeholders, may establish and require the use of that standard.

“(c) Provisional Standards.—

“(1) In General.—If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives described in subsection (a), the Secretary may establish a provisional stand-
ard, after consultation with affected parties, using, to the maximum extent practicable, the work product of appropriate standards development organizations.

“(2) Period of Effectiveness.—A provisional standard established under paragraph (1) shall be published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.

“(d) Conformity With National Architecture.—

“(1) In General.—Except as provided in paragraph (2), the Secretary shall ensure that intelligent transportation system projects carried out using amounts made available from the Highway Trust Fund, including amounts made available to deploy intelligent transportation systems, conform to the appropriate regional ITS architecture, applicable standards, and protocols developed under subsection (a) or (c).

“(2) Discretion of the Secretary.—The Secretary, at the discretion of the Secretary, may offer an exemption from paragraph (1) for projects designed to achieve specific research objectives out-
lined in the national intelligent transportation system program plan or the surface transportation research and development strategic plan developed under section 508.’’.

(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by adding after the item relating to section 516 (as added by section 2304) the following:

‘‘517. National architecture and standards.’’.

SEC. 2306. 5.9 GHZ VEHICLE-TO-VEHICLE AND VEHICLE-TO-INFRASTRUCTURE COMMUNICATIONS SYSTEMS DEPLOYMENT.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding after section 517 (as added by section 2305) the following:

‘‘§ 518. 5.9 GHz vehicle-to-vehicle and vehicle-to-infrastructure communications systems deployment

‘‘(a) IN GENERAL.—Not later than 3 years after the date of enactment of this section, the Secretary shall submit to the appropriate committees of Congress a report that—

‘‘(1) describes a recommended implementation path for dedicated short-range communications technology and applications; and

...
“(2) includes guidance on the relationship of
the proposed deployment of dedicated short-range
communications to the National ITS Architecture
and ITS Standards.

“(b) NATIONAL RESEARCH COUNCIL REVIEW.—The
Secretary shall enter into an agreement with the National
Research Council for the review by the National Research
Council of the report described in subsection (a).”.

(b) CONFORMING AMENDMENT.—The analysis of
chapter 5 of title 23, United States Code, is amended by
adding after section 517 (as added by section 2305) the
following:

“518. 5.9 GHz vehicle-to-vehicle and vehicle-to-infrastructure communications
systems deployment.”.

TITLE III—AMERICA FAST FORWARD FINANCING INNOVATION

SEC. 3001. SHORT TITLE.

This title may be cited as the “America Fast Forward Financing Innovation Act of 2011”.

SEC. 3002. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT AMENDMENTS.

Sections 601 through 609 of title 23, United States Code, are amended to read as follows:
§ 601. Generally applicable provisions

(a) Definitions.—In this chapter, the following definitions apply:

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

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

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

(C) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

(2) Federal credit instrument.—The term ‘Federal credit instrument’ means a secured loan, loan guarantee, or line of credit authorized to
be made available under this chapter with respect to a project.

“(3) INVESTMENT-GRADE RATING.—The term ‘investment-grade rating’ means a rating of BBB minus, Baa3, bbb minus, BBB (low), or higher assigned by a rating agency to project obligations.

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

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

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

“(5) LETTER OF INTEREST.—The term ‘letter of interest’ means a letter submitted by a potential applicant prior to an application for credit assistance in a format prescribed by the Secretary on the website of the TIFIA program, which—
“(A) describes the project and the location, purpose, and cost of the project;

“(B) outlines the proposed financial plan, including the requested credit assistance and the proposed obligor;

“(C) provides a status of environmental review; and

“(D) provides information regarding satisfaction of other eligibility requirements of the TIFIA program.

“(6) LINE OF CREDIT.—The term ‘line of credit’ means an agreement entered into by the Secretary with an obligor under section 604 to provide a direct loan at a future date upon the occurrence of certain events.

“(7) LIMITED BUYDOWN.—The term ‘limited buydown’ means, subject to the conditions described in section 603(b)(4)(C), a buydown of the interest rate by the Secretary and by the obligor if the interest rate has increased between—

“(A)(i) the date on which a project application acceptable to the Secretary is submitted; or

“(ii) the date on which the Secretary entered into a master credit agreement; and
“(B) the date on which the Secretary executes the Federal credit instrument.

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

“(9) MASTER CREDIT AGREEMENT.—The term ‘master credit agreement’ means an agreement to extend credit assistance for a program of projects secured by a common security pledge (which shall receive an investment grade rating from a rating agency), or for a single project covered under section 602(b)(2) that would—

“(A) make contingent commitments of 1 or more secured loans or other Federal credit instruments at future dates, subject to the availability of future funds being made available to carry out this chapter;

“(B) establish the maximum amounts and general terms and conditions of the secured loans or other Federal credit instruments;

“(C) identify the 1 or more dedicated non-Federal revenue sources that will secure the re-
payment of the secured loans or secured Federal credit instruments;

“(D) provide for the obligation of funds for the secured loans or secured Federal credit instruments after all requirements have been met for the projects subject to the master credit agreement, including—

“(i) completion of an environmental impact statement or similar analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

“(ii) compliance with such other requirements as are specified in section 602(c); and

“(iii) the availability of funds to carry out this chapter; and

“(E) require that contingent commitments result in a financial close and obligation of credit assistance not later than 3 years after the date of entry into the master credit agreement, or release of the commitment, unless otherwise extended by the Secretary.

“(10) OBLIGOR.—The term ‘obligor’ means a party that—
“(A) is primarily liable for payment of the principal of or interest on a Federal credit instrument; and

“(B) may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

“(11) PROJECT.—The term ‘project’ means—

“(A) any surface transportation project eligible for Federal assistance under this title or chapter 53 of title 49;

“(B) a project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible;

“(C) a project for intercity passenger bus or rail facilities and vehicles, including facilities and vehicles owned by the National Railroad Passenger Corporation and components of magnetic levitation transportation systems; and

“(D) a project that—

“(i) is a project—

“(I) for a public freight rail facility or a private facility providing public benefit for highway users by way of
direct freight interchange between highway and rail carriers;

“(II) for an intermodal freight transfer facility;

“(III) for a means of access to a facility described in subclause (I) or (II);

“(IV) for a service improvement for a facility described in subclause (I) or (II) (including a capital investment for an intelligent transportation system); or

“(V) that comprises a series of projects described in subclauses (I) through (IV) with the common objective of improving the flow of goods;

“(ii) may involve the combining of private and public sector funds, including investment of public funds in private sector facility improvements;

“(iii) if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate di-
rect intermodal interchange, transfer, and
access into and out of the port; and

“(iv) is composed of related highway,
surface transportation, transit, rail, or
intermodal capital improvement projects el-
ligible for assistance under this subsection
in order to meet the eligible project cost
threshold under section 602, by grouping
related projects together for that purpose,
on the condition that the credit assistance
for the projects is secured by a common
pledge.

“(12) PROJECT OBLIGATION.—The term
‘project obligation’ means any note, bond, debenture,
or other debt obligation issued by an obligor in con-
nection with the financing of a project, other than
a Federal credit instrument.

“(13) RATING AGENCY.—The term ‘rating
agency’ means a credit rating agency registered with
the Securities and Exchange Commission as a na-
tionally recognized statistical rating organization (as
that term is defined in section 3(a) of the Securities

“(14) RURAL INFRASTRUCTURE PROJECT.—
The term ‘rural infrastructure project’ means a sur-
A face transportation infrastructure project located in any area other than an urbanized area that has a population of greater than 200,000 inhabitants.

“(15) SECURED LOAN.—The term ‘secured loan’ means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 603.

“(16) STATE.—The term ‘State’ has the meaning given the term in section 101.

“(17) SUBSIDY AMOUNT.—The term ‘subsidy amount’ means the amount of budget authority sufficient to cover the estimated long-term cost to the Federal Government of a Federal credit instrument, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

“(18) SUBSTANTIAL COMPLETION.—The term ‘substantial completion’ means—

“(A) the opening of a project to vehicular or passenger traffic; or
“(B) a comparable event, as determined by
the Secretary and specified in the credit agree-
ment.

“(19) TIFIA PROGRAM.—The term ‘TIFIA
program’ means the transportation infrastructure fi-
nance and innovation program of the Department.

“(20) CONTINGENT COMMITMENT.—The term
‘contingent commitment’ means a commitment to ob-
ligate an amount from future available budget au-
thority that is—

“(A) contingent upon those funds being
made available in law at a future date; and

“(B) not an obligation of the Federal Gov-
ernment.

“(b) TREATMENT OF CHAPTER.—For purposes of
this title, this chapter shall be treated as being part of
chapter 1.

“§ 602. Determination of eligibility and project selec-
tion

“(a) ELIGIBILITY.—A project shall be eligible to re-
ceive credit assistance under this chapter if the entity pro-
posing to carry out the project submits a letter of interest
prior to submission of a formal application for the project,
and the project meets the following criteria:

“(1) CREDITWORTHINESS.—
“(A) IN GENERAL.—The project shall satisfy applicable creditworthiness standards, which, at a minimum, includes—

“(i) a rate covenant, if applicable;

“(ii) adequate coverage requirements to ensure repayment;

“(iii) an investment grade rating from at least 2 rating agencies on debt senior to the Federal credit instrument; and

“(iv) a rating from at least 2 rating agencies on the Federal credit instrument, subject to the condition that, with respect to clauses (ii) and clause (iii), if the senior debt and Federal credit instrument is for an amount less than $75,000,000 or for a rural infrastructure project or intelligent transportation systems project, 1 rating agency opinion for each of the senior debt and Federal credit instrument shall be sufficient.

“(B) SENIOR DEBT.—Notwithstanding subparagraph (A), in a case in which the Federal credit instrument is the senior debt, the Federal credit instrument shall be required to receive an investment grade rating from at least
2 rating agencies, unless the credit instrument is for a rural infrastructure project or intelligent transportation systems project, in which case 1 rating agency opinion shall be sufficient.

“(2) Inclusion in Transportation Plans and Programs.—The project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under this chapter.

“(3) Application.—A State, local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the Secretary, shall submit a project application acceptable to the Secretary.

“(4) Eligible Project Costs.—

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

“(i)(I) $50,000,000; or

“(II) in the case of a rural infrastructure project, $25,000,000; or
“(ii) 33 1/3 percent of the amount of Federal highway assistance funds apportioned for the most recently completed fiscal year to the State in which the project is located.

“(B) INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—In the case of a project principally involving the installation of an intelligent transportation system, eligible project costs shall be reasonably anticipated to equal or exceed $15,000,000.

“(5) DEDICATED REVENUE SOURCES.—The Federal credit instrument shall be repayable, in whole or in part, from tolls, user fees, or other dedicated revenue sources that also secure the project obligations.

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

“(b) SELECTION AMONG ELIGIBLE PROJECTS.—
“(1) ESTABLISHMENT.—The Secretary shall est-
ablish a rolling application process in which projects
that are eligible to receive credit assistance under
subsection (a) shall receive credit assistance on
terms acceptable to the Secretary, if adequate funds
are available to cover the subsidy costs associated
with the Federal credit instrument.

“(2) ADEQUATE FUNDING NOT AVAILABLE.—

“(A) IN GENERAL.—If the Secretary fully
obligates funding to eligible projects in a given
fiscal year, and adequate funding is not avail-
able to fund a credit instrument, a project
sponsor of an eligible project may elect to enter
into a master credit agreement and wait until
the following fiscal year or until additional
funds are available to receive credit assistance;
or pay its own credit subsidy to permit an obli-
gation.

“(B) USE OF FUNDS.—A project sponsor
may use non-Federal funds or any eligible funds
apportioned under chapter 4 of this title or
chapter 53 of title 49 to pay a credit subsidy
described in subparagraph (A).

“(3) PRELIMINARY RATING OPINION LETTER.—
The Secretary shall require each project applicant to
provide a preliminary rating opinion letter from at least 1 rating agency—

“(A) indicating that the senior obligations of the project, which may be the Federal credit instrument, have the potential to achieve an investment-grade rating; and

“(B) including a preliminary rating opinion on the Federal credit instrument.

“(c) FEDERAL REQUIREMENTS.—

“(1) IN GENERAL.—In addition to the requirements of this title for highway projects, chapter 53 of title 49 for transit projects, and section 5333(a) of title 49 for rail projects, the following provisions of law shall apply to funds made available under this chapter and projects assisted with the funds:

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


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

“(2) NEPA.—No funding shall be obligated for a project that has not received an environmental Categorical Exclusion, Finding of No Significant
Impact, or Record of Decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“§ 603. Secured loans

“(a) In general.—

“(1) Agreements.—Subject to paragraphs (2) through (4), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which shall be used—

“(A) to finance eligible project costs of any project selected under section 602;

“(B) to refinance interim construction financing of eligible project costs of any project selected under section 602; or

“(C) to refinance existing loan agreements for rural infrastructure projects; or

“(C)(D) to refinance long-term project obligations or Federal credit instruments if the refinancing provides additional funding capacity for the completion, enhancement, or expansion of any project that—

“(i) is selected under section 602; or

“(ii) otherwise meets the requirements of section 602.
“(2) Limitation on Refinancing of Interim Construction Financing.—A loan under paragraph (1) shall not refinance interim construction financing under paragraph (1)(B) later than 1 year after the date of substantial completion of the project.

“(3) Risk Assessment.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget, shall determine an appropriate capital reserve subsidy amount for each secured loan, taking into account each rating letter provided by an agency under section 602(b)(3)(B).

“(b) Terms and Limitations.—

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

“(2) Maximum Amount.—The amount of the secured loan shall not exceed the lesser of 49 percent of the reasonably anticipated eligible project costs or, if the secured loan does not receive an in-
investment grade rating, the amount of the senior project obligations.

“(3) PAYMENT.—The secured loan—

“(A) shall—

“(i) be payable, in whole or in part, from tolls, user fees, or other dedicated revenue sources that also secure the senior project obligations; and

“(ii) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

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

“(4) INTEREST RATE.—

“(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the interest rate on the secured loan shall be not less than the yield on United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

“(B) RURAL INFRASTRUCTURE PROJECTS.—A loan offered to a rural infrastructure project under this chapter shall be at \( \frac{1}{2} \) of the Treasury Rate.
“(C) **LIMITED BUYDOWNS.** —A limited buydown is subject to the following conditions:

“(i) The interest rate under the agreement may not be lowered by more than the lower of—

“(I) 1 1/2 percentage points (150 basis points); or

“(II) the amount of the increase in the interest rate.

“(ii) The Secretary may pay up to 50 percent of the cost of the limited buydown, and the obligor shall pay the balance of the cost of the limited buydown.

“(iii) Not more than 5 percent of the funding made available annually to carry out this chapter may be used to carry out limited buydowns.

“(5) **MATURITY DATE.** —The final maturity date of the secured loan shall be the lesser of—

“(A) 35 years after the date of substantial completion of the project; or

“(B) if the useful life of the capital asset being financed is of a lesser period, the useful life of the asset.

“(6) **NONSUBORDINATION.** —
“(A) IN GENERAL.—Except as provided in
subparagraphs (B) and (C) subparagraph (B),
the secured loan shall not be subordinated to
the claims of any holder of project obligations
in the event of bankruptcy, insolvency, or liq-
uidation of the obligor.

“(B) PRE-EXISTING INDENTURE.—

“(i) IN GENERAL.—The Secretary
shall waive subparagraph (A) for public
agency borrowers that are financing ongo-
ing capital programs and have outstanding
senior bonds under a pre-existing inden-
ture, if—

“(I) the secured loan is rated in
the A-category or higher;

“(II) the secured loan is secured
and payable from pledged revenues
not affected by project performance,
such as a tax-backed revenue pledge
or a system-backed pledge of project
revenues; and

“(III) the TIFIA program share
of eligible project costs is 33 percent
or less.
“(ii) LIMITATION.—If the Secretary waives the nonsubordination requirement under this subparagraph—

“(I) the maximum credit subsidy that will be paid by the Federal Government shall be limited to 10 percent of the principal amount of the secured loan; and

“(II) the obligor shall be responsible for paying the remainder of the subsidy cost.

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

“(8) NON-FEDERAL SHARE.—The proceeds of a secured loan under this chapter may be used for any non-Federal share of project costs required under this title or chapter 53 of title 49, if the loan is repayable from non-Federal funds.

“(9) MAXIMUM FEDERAL INVOLVEMENT.—The total Federal assistance provided on a project receiving a loan under this chapter shall not exceed 80 percent of the total project cost.

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

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

“(3) DEFERRED PAYMENTS.—

“(A) AUTHORIZATION.—If, at any time after the date of substantial completion of the project, the project is unable to generate sufficient revenues to pay the scheduled loan repayments of principal and interest on the secured loan, the Secretary may, subject to subparagraph (C), allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

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

“(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and
“(ii) be scheduled to be amortized over the remaining term of the loan.

“(C) CRITERIA.—

“(i) IN GENERAL.—Any payment deferral under subparagraph (A) shall be contingent on the project meeting criteria established by the Secretary.

“(ii) REPAYMENT STANDARDS.—The criteria established under clause (i) shall include standards for reasonable assurance of repayment.

“(4) PREPAYMENT.—

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

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

“(1) **In General.**—Subject to paragraph (2), as soon as practicable after substantial completion of a project and after notifying the obligor, the Secretary may sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

“(2) **Consent of Obligor.**—In making a sale or reoffering under paragraph (1), the Secretary may not change the original terms and conditions of the secured loan without the written consent of the obligor.

“(e) **Loan Guarantees.**—

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

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

(a) In General.—

(1) AGREEMENTS.—Subject to paragraphs (2) through (4), the Secretary may enter into agreements to make available lines of credit to 1 or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any project selected under section 602.

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

(3) RISK ASSESSMENT.—Before entering into an agreement under this subsection, the Secretary, in consultation with the Director of the Office of Management and Budget and each rating agency providing a preliminary rating opinion letter under section 602(b)(3), shall determine an appropriate capital reserve subsidy amount for each line of credit, taking into account the rating opinion letter.

(4) INVESTMENT-GRADE RATING REQUIREMENT.—The funding of a line of credit under this
section shall be contingent on the senior obligations of the project receiving an investment-grade rating from 2 rating agencies.

“(b) TERMS AND LIMITATIONS.—

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

“(2) MAXIMUM AMOUNTS.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.

“(3) DRAWS.—Any draw on the line of credit shall represent a direct loan and shall be made only if net revenues from the project (including capitalized interest but not including reasonably required financing reserves) are insufficient to pay the costs specified in subsection (a)(2).

“(4) INTEREST RATE.—Except as otherwise provided in subparagraphs (B) and (C) of section 603(b)(4), the interest rate on a direct loan resulting from a draw on the line of credit shall be not less than the yield on 30-year United States Treas-
ury securities as of the date of execution of the line
of credit agreement.

“(5) SECURITY.—The line of credit—

“(A) shall—

“(i) be payable, in whole or in part,
from tolls, user fees, or other dedicated
revenue sources that also secure the senior
project obligations; and

“(ii) include a rate covenant, coverage
requirement, or similar security feature
supporting the project obligations; and

“(B) may have a lien on revenues de-
dcribed in subparagraph (A) subject to any lien
securing project obligations.

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

“(7) RIGHTS OF THIRD-PARTY CREDITORS.—

“(A) AGAINST FEDERAL GOVERNMENT.—A
third-party creditor of the obligor shall not have
any right against the Federal Government with
respect to any draw on the line of credit.
“(B) ASSIGNMENT.—An obligor may assign the line of credit to 1 or more lenders or to a trustee on the behalf of the lenders.

“(8) NONSUBORDINATION.—

“(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), a direct loan under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

“(B) PRE-EXISTING INDENTURE.—

“(i) IN GENERAL.—The Secretary shall waive subparagraph (A) for public agency borrowers that are financing ongoing capital programs and have outstanding senior bonds under a pre-existing indenture, if—

“(I) the line of credit is rated in the A-category or higher;

“(II) the TIFIA program loan resulting from a draw on the line of credit is payable from pledged revenues not affected by project performance, such as a tax-backed revenue
pledge or a system-backed pledge of project revenues; and

“(III) the TIFIA program share of eligible project costs is 33 percent or less.

“(ii) LIMITATION.—If the Secretary waives the nonsubordination requirement under this subparagraph—

“(I) the maximum credit subsidy that will be paid by the Federal Government shall be limited to 10 percent of the principal amount of the secured loan; and

“(II) the obligor shall be responsible for paying the remainder of the subsidy cost.

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

“(10) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—A project that receives a line of credit under this section shall not also receive a secured loan or loan guarantee under section 603 in an
amount that, combined with the amount of the line
of credit, exceeds 49 percent of eligible project costs.

“(c) REPAYMENT.—

“(1) TERMS AND CONDITIONS.—The Secretary
shall establish repayment terms and conditions for
each direct loan under this section based on the pro-
jected cash flow from project revenues and other re-
payment sources, and the useful life of the asset
being financed.

“(2) TIMING.—All repayments of principal or
interest on a direct loan under this section shall be
scheduled to commence not later than 5 years after
the end of the period of availability specified in sub-
section (b)(6) and to conclude, with full repayment
of principal and interest, by the date that is 25
years after the end of the period of availability speci-
fied in subsection (b)(6).

“§ 605. Program administration

“(a) REQUIREMENT.—The Secretary shall establish
a uniform system to service the Federal credit instruments
made available under this chapter.

“(b) FEES.—The Secretary may collect and spend
fees, contingent upon authority being provided in appro-
priations Acts, at a level that is sufficient to cover—
“(1) the costs of services of expert firms retained pursuant to subsection (d); and

“(2) all or a portion of the costs to the Federal Government of servicing the Federal credit instruments.

“(c) SERVICER.—

“(1) IN GENERAL.—The Secretary may appoint a financial entity to assist the Secretary in servicing the Federal credit instruments.

“(2) DUTIES.—The servicer shall act as the agent for the Secretary.

“(3) Fee.—The servicer shall receive a servicing fee, subject to approval by the Secretary.

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

“§ 606. State and local permits

“The provision of credit assistance under this chapter with respect to a project shall not—

“(1) relieve any recipient of the assistance of any obligation to obtain any required State or local permit or approval with respect to the project;
“(2) limit the right of any unit of State or local
government to approve or regulate any rate of re-
turn on private equity invested in the project; or
“(3) otherwise supersede any State or local law
(including any regulation) applicable to the construc-
tion or operation of the project.

§ 607. Regulations
“The Secretary may promulgate such regulations as
the Secretary determines appropriate to carry out this
chapter.

§ 608. Funding
“(a) Funding.—
“(1) Spending and borrowing authority.—Spending and borrowing authority for a fiscal
year to enter into Federal credit instruments shall
be promptly apportioned to the Secretary on a fiscal
year basis.
“(2) Reestimates.—When the estimated cost
of a loan or loans is reestimated, the cost of the re-
estimate shall be borne by or benefit the general
fund of the Treasury, consistent with section 661c(f)
of title 2, United States Code.
“(3) Rural set-aside.—
“(A) In general.—Of the total amount
of funds made available to carry out this chap-
ter for each fiscal year, 10 percent shall be set aside for rural infrastructure projects.

“(B) REOBLIGATION.—Any amounts set aside under subparagraph (A) that remain unobligated by June 1 of the fiscal year for which the amounts were set aside shall be available for obligation by the Secretary on projects other than rural infrastructure projects.

“(4) REDISTRIBUTION OF AUTHORIZED FUNDING.—

“(A) IN GENERAL.—Beginning for in the second fiscal year after the date of enactment of this paragraph, on August 1 of that fiscal year, and each fiscal year thereafter, if the unobligated and uncommitted balance of funding available exceeds 150 percent of the amount made available to carry out this chapter for that fiscal year, the Secretary shall distribute to the States the amount of funds and associated obligation authority in excess of that amount.

“(B) DISTRIBUTION.—The amounts and obligation authority distributed under this paragraph shall be distributed, in the same manner as obligation authority is distributed to the
States for the fiscal year, based on the proportion that—

“(i) the relative share of each State of obligation authority for the fiscal year;

bears to

“(ii) the total amount of obligation authority distributed to all States for the fiscal year.

“(C) PURPOSE.—Funds distributed under subparagraph (B) shall be available for any purpose described in section 133(c).

“(5) AVAILABILITY.—Amounts made available to carry out this chapter shall remain available until expended.

“(6) ADMINISTRATIVE COSTS.—Of the amounts made available to carry out this chapter, the Secretary may use not more than 1 percent for each fiscal year for the administration of this chapter.

“(b) CONTRACT AUTHORITY.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, execution of a term sheet by the Secretary of a Federal credit instrument that uses amounts made available under this chapter shall impose on the United States a contractual obligation to fund the Federal credit investment.
“(2) Availability.—Amounts made available to carry out this chapter for a fiscal year shall be available for obligation on October 1 of the fiscal year.

§ 609. Reports to Congress

“On June 1, 2012, and every 2 years thereafter, the Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under this chapter (other than section 610), including a recommendation as to whether the objectives of this chapter (other than section 610) are best served—

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

“(2) by establishing a Federal corporation or federally sponsored enterprise to administer the program; or

“(3) by phasing out the program and relying on the capital markets to fund the types of infrastructure investments assisted by this chapter (other than section 610) without Federal participation.”.

SEC. 3003. STATE INFRASTRUCTURE BANKS.

Section 610(d)(1)(A) of title 23, United States Code, is amended by striking “sections 104(b)(1)” and all that
follows though the semicolon and inserting “paragraphs (1) and (2) of section 104(b)”.

TITLE IV—HIGHWAY SPENDING CONTROLS

SEC. 4001. HIGHWAY SPENDING CONTROLS.

(a) In General.—Title 23, United States Code, is amended by adding at the end the following:

CHAPTER 7—HIGHWAY SPENDING CONTROLS

Sec. 701. Solvency of Highway Account of the Highway Trust Fund.

“SEC. 701. SOLVENCY OF HIGHWAY ACCOUNT OF THE HIGHWAY TRUST FUND.

(a) Solvency Calculation for Fiscal Year 2012.—Not later than 60 days after the date of enactment of the MAP–21, the Secretary, in consultation with the Secretary of Treasury, shall—

(1) estimate the balance of the Highway Trust Fund (other than the Mass Transit Account) at the end of such fiscal year and the end of the next fiscal year, for purposes of which estimation the Secretary shall assume that the obligation limitation on Federal-aid highways and highway safety construction programs is equal to the obligation limitations enacted for those fiscal years in the MAP–21;
(2) determine if the estimated balance of the Highway Trust Fund (other than the Mass Transit Account) would fall below—

(A) $2,000,000,000 at the end of the fiscal year for which the obligation limitation is being distributed; or

(B) $1,000,000,000 at the end of the next fiscal year;

(3) if either of the conditions in paragraph (1) would occur, calculate the amount by which the obligation limitation in the fiscal year for which the obligation limitation is being distributed must be reduced to prevent such occurrence; for purposes of which calculation the Secretary shall assume that the obligation limitation on Federal-aid highways and highway safety construction programs for the next fiscal year is equal to the obligation limitation for the fiscal year for which the limitation is being distributed as reduced pursuant to this subparagraph;

(4) distribute such obligation limitation, less any amount determined under paragraph (3);

(5) ensure that any obligation limitation that is withheld from distribution pursuant to paragraph
(3) shall lapse immediately following the distribution of obligation limitation under paragraph (4); and

"(6) upon the lapse of any obligation limitation under paragraph (5), reduce proportionately the amount of sums authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for such fiscal year to carry out each of the Federal-aid highway and highway safety construction programs (other than emergency relief) by an aggregate amount equal to the amount determined pursuant to such paragraph. The amounts withheld pursuant to this paragraph are permanently rescinded.

"(a) Solvency Calculation for Fiscal Year 2012.—

"(1) Adjustment of Obligation Limitation.—Not later than 60 days after the date of enactment of the MAP–21, the Secretary, in consultation with the Secretary of Treasury, shall:

"(A) Estimate the balance of the Highway Trust Fund (other than the Mass Transit Account) at the end of fiscal years 2012 and 2013.

For purposes of which estimation, the Secretary shall assume that the obligation limitation on Federal-aid highways and highway safety con-
struction programs will be equal to the obligation limitations enacted for those fiscal years in the MAP–21.

“(B) Determine if the estimated balance of the Highway Trust Fund (other than the Mass Transit Account) would fall below—

“(i) $2,000,000,000 at the end of fiscal year 2012; or

“(ii) $1,000,000,000 at the end of fiscal year 2013.

“(C) If either of the conditions in subparagraph (B) would occur, calculate the amount by which the fiscal year 2012 obligation limitation must be reduced to prevent such occurrence. For purposes of this calculation, the Secretary shall assume that the obligation limitation on Federal-aid highways and highway safety construction programs for the fiscal year 2013 will be equal to the obligation limitation for fiscal year 2012, as reduced pursuant to this subparagraph.

“(D) Adjust the distribution of the fiscal year 2012 obligation limitation to reflect any reduction determined under subparagraph (C).

“(2) LAPSE AND RESCISSION.—
“(A) Lapse of Obligation Limitation.—
Any obligation limitation that is withdrawn by
the Secretary pursuant to paragraph (1)(D)
shall lapse immediately following the adjustment
of obligation limitation under such paragraph.

“(B) Rescission of Contract Authority.—Upon the lapse of any obligation limita-
tion under subparagraph (A), the Secretary shall
reduce proportionately the amount authorized to
be appropriated from the Highway Trust Fund
(other than the Mass Transit Account) for fiscal
year 2012 to carry out each of the Federal-aid
highway and highway safety construction pro-
grams (other than emergency relief and funds
under the national highway performance pro-
gram that are exempt from the fiscal year 2012
obligation limitation) by an aggregate amount
equal to the amount of adjustment determined
pursuant to paragraph (1)(D). The amounts
withdrawn pursuant to this subparagraph are
permanently rescinded.

“(b) Solvency Calculation for Fiscal Year
2013 and Fiscal Years Thereafter.—

“(1) Adjustment of Obligation Limita-
tion.—Except as provided in paragraph (2), in dis-
tributing the obligation limitation on Federal-aid highways and highway safety construction programs for fiscal year 2013 and each fiscal year thereafter, the Secretary shall—

"(A) estimate the balance of the Highway Trust Fund (other than the Mass Transit Account) at the end of such fiscal year and the end of the next fiscal year, for purposes of which estimation, the Secretary shall assume that the obligation limitation on Federal-aid highways and highway safety construction programs for the next fiscal year is will be equal to the obligation limitation enacted for the fiscal year for which the limitation is being distributed;

"(B) determine if the estimated balance of the Highway Trust Fund (other than the Mass Transit Account) would fall below—

"(i) $2,000,000,000 at the end of the fiscal year for which the obligation limitation is being distributed; or

"(ii) $1,000,000,000 at the end of the next fiscal year;

"(C) if either of the conditions in subparagraph (B) would occur, calculate the amount by
which the obligation limitation in the fiscal year
for which the obligation limitation is being dis-
tributed must be reduced to prevent such occur-
rence; and

“(D) distribute such obligation limitation
less any amount determined under subpara-
graph (C).

“(2) Lapse and rescission.—

“(A) Obligation limitation.—

“(i) Recalculation.—In a fiscal
year in which the Secretary withholds obli-
gation limitation based on the calculation
under paragraph (1), the Secretary shall,
on March 1 of such fiscal year, repeat the
calculations under subparagraphs (A)
through (C) of such paragraph. Based on
the results of those calculations, the Sec-
retary shall—

“(I) if the Secretary determines
that either of the conditions in para-
graph (1)(B) would occur, withdraw
an additional amount of obligation
limitation necessary to prevent such
occurrence; or
“(II) distribute as much of the withheld obligation limitation as may be distributed without causing either of the conditions specified in paragraph (1)(B) to occur.

“(ii) LAPSE.—Any obligation limitation that is enacted for a fiscal year, withheld from distribution pursuant to paragraph (1)(D) (or withdrawn under clause (i)(I)), and not subsequently distributed under clause (i)(II) shall lapse immediately following the distribution of obligation limitation under such paragraph clause.

“(B) CONTRACT AUTHORITY.—

“(i) IN GENERAL.—Upon the lapse of any obligation limitation under subparagraph (A)(ii), an equal amount of the unobligated balances of funds apportioned among the States under chapter 1 and sections 1116, 1303, and 1404 of the SAFETEA–LU (119 Stat. 1177, 1207, and 1228) are permanently rescinded. In administering the rescission required under this subparagraph clause, the Secretary shall allow each State to determine the
amount of the required rescission to be
drawn from the programs to which the re-
scission applies, except as provided in
clause (ii).

“(ii) RESCISSION OF FUNDS APPOR-
TIONED IN FISCAL YEAR 2013 AND FISCAL
YEARS THEREAFTER.—If a State deter-
mines that it will meet any of its required
rescission amount from funds apportioned
to such State on or subsequent to October
1, 2012, the Secretary shall determine the
amount to be rescinded from each of the
programs subject to the rescission for
which the State was apportioned funds on
or subsequent to October 1, 2012, in pro-
portion to the cumulative amount of appor-
tionments that the State received for each
such program on or subsequent to October
1, 2012.

“(3) OTHER ACTIONS TO PREVENT INSOL-
VENCY.—The Secretary shall issue a regulation to
establish any actions in addition to those described
in subsection (a) and paragraph (1) that may be
taken by the Secretary if it becomes apparent that
the Highway Trust Fund (other than the Mass
Transit Account) will become insolvent, including the denial of further obligations.

“(4) APPLICABLE ONLY TO FULL-YEAR LIMITATION.—The requirements of paragraph (1) apply only to the distribution of a full-year obligation limitation and do not apply to partial-year limitations under continuing appropriations Acts.”.

(b) TABLE OF CHAPTERS.—The table of chapters for title 23, United States Code, is amended by inserting after the item relating to chapter 6 the following:

“7. Highway Spending Controls ............................................................... 701”.

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Calendar No. 311