

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*]

A BILL

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

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

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

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

Sec. 2. Definitions.

Subtitle A—Authorizations and Programs

Subtitle A—Authorizations and Programs

Sec. 1118. Projects of national and regional significance.

Sec. 1203. National goals.

Sec. 1316. Review of Federal project and program delivery.

Subtitle D—Highway Safety

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

Subtitle E—Miscellaneous

- Sec. 1501. Program efficiencies.
- Sec. 1502. Project approval and oversight.
- Sec. 1503. Standards.
- Sec. 1504. Construction.
- Sec. 1505. Maintenance.
- Sec. 1506. Federal share payable.
- Sec. 1507. Transferability of Federal-aid highway funds.
- Sec. 1508. Special permits during periods of national emergency.
- Sec. 1509. Electric vehicle charging stations.
- Sec. 1510. HOV facilities.
- Sec. 1511. Construction equipment and vehicles.
- Sec. 1512. Use of debris from demolished bridges and overpasses.
- Sec. 1513. Extension of public transit vehicle exemption from axle weight restrictions.
- Sec. 1514. Uniform Relocation Assistance Act amendments.
- Sec. 1515. Use of youth service and conservation corps.
- Sec. 1516. Consolidation of programs; repeal of obsolete provisions.
- Sec. 1517. Rescissions.
- Sec. 1518. State autonomy for culvert pipe selection.
- Sec. 1519. *Effective and significant performance measures.*
- Sec. 1520. *Requirements for eligible bridge projects.*

TITLE II—RESEARCH AND EDUCATION

Subtitle A—Funding

- Sec. 2101. Authorization of appropriations.

Subtitle B—Research, Technology, and Education

- Sec. 2201. Research, technology, and education.
- Sec. 2202. Surface transportation research, development, and technology.
- Sec. 2203. Research and technology development and deployment.
- Sec. 2204. Training and education.
- Sec. 2205. State planning and research.
- Sec. 2206. International highway transportation program.
- Sec. 2207. Surface transportation environmental cooperative research program.
- Sec. 2208. National cooperative freight research.
- Sec. 2209. University transportation centers program.
- Sec. 2210. Bureau of transportation statistics.
- Sec. 2211. Administrative authority.
- Sec. 2212. Transportation research and development strategic planning.
- Sec. 2213. *National electronic vehicle corridors and recharging infrastructure network.*

Subtitle C—~~Funding~~ *Intelligent Transportation Systems Research*

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

TITLE III—AMERICA FAST FORWARD FINANCING INNOVATION

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

TITLE IV—HIGHWAY SPENDING CONTROLS

- Sec. 4001. Highway spending controls.

1 **SEC. 2. DEFINITIONS.**

2 In this Act, the following definitions apply:

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

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

7 **TITLE I—FEDERAL-AID** 8 **HIGHWAYS**

9 **Subtitle A—Authorizations and** 10 **Programs**

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

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

15 (1) FEDERAL-AID HIGHWAY PROGRAM.—For
16 the national highway performance program under
17 section 119 of title 23, United States Code, the

1 transportation mobility program under section 133
 2 of that title, the highway safety improvement pro-
 3 gram under section 148 of that title, the congestion
 4 mitigation and air quality improvement program
 5 under section 149 of that title, the national freight
 6 program under section 167 of that title, and to carry
 7 out section 134 of that title—

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

9 and

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

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

17 (3) FEDERAL LANDS AND TRIBAL TRANSPOR-
 18 TATION PROGRAMS.—

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

24 (B) FEDERAL LANDS TRANSPORTATION
 25 PROGRAM.—For the Federal lands transpor-

tation 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

1 of the Small Business Act (15 U.S.C.
2 632)).

3 (ii) EXCLUSIONS.—The term “small
4 business concern” does not include any
5 concern or group of concerns controlled by
6 the same socially and economically dis-
7 advantaged individual or individuals that
8 have average annual gross receipts during
9 the preceding 3 fiscal years in excess of
10 \$22,410,000, as adjusted annually by the
11 Secretary for inflation.

12 (B) SOCIALLY AND ECONOMICALLY DIS-
13 ADVANTAGED INDIVIDUALS.—The term “so-
14 cially and economically disadvantaged individ-
15 uals” means—

16 (i) women; and

17 (ii) any other socially and economi-
18 cally disadvantaged individuals (as the
19 term is used in section 8(d) of the Small
20 Business Act (15 U.S.C. 637(d)) and rel-
21 evant subcontracting regulations promul-
22 gated pursuant to that Act).

23 (2) AMOUNTS FOR SMALL BUSINESS CON-
24 CERNS.—Except to the extent that the Secretary de-
25 termines otherwise, not less than 10 percent of the

1 amounts made available for any program under ti-
 2 tles I, II, and III of this Act and section 403 of title
 3 23, United States Code, shall be expended through
 4 small business concerns owned and controlled by so-
 5 cially and economically disadvantaged individuals.

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

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

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

15 (i) women;

16 (ii) socially and economically dis-
 17 advantaged individuals (other than
 18 women); and

19 (iii) individuals who are women and
 20 are otherwise socially and economically dis-
 21 advantaged individuals.

22 (4) UNIFORM CERTIFICATION.—

23 (A) IN GENERAL.—The Secretary shall es-
 24 tablish minimum uniform criteria for use by
 25 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 pre-
ferred.

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

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

1 (B) such other information as the Sec-
 2 retary determines to be appropriate for the
 3 proper monitoring of the disadvantaged busi-
 4 ness enterprise program.

5 (6) COMPLIANCE WITH COURT ORDERS.—Noth-
 6 ing in this subsection limits the eligibility of an indi-
 7 vidual or entity to receive funds made available
 8 under titles I, II, and III of this Act and section 403
 9 of title 23, United States Code, if the entity or per-
 10 son is prevented, in whole or in part, from complying
 11 with paragraph (2) because a Federal court issues a
 12 final order in which the court finds that a require-
 13 ment or the implementation of paragraph (2) is un-
 14 constitutional.

15 **SEC. 1102. OBLIGATION CEILING.**

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

20 (1) \$41,564,000,000 for fiscal year 2012; and

21 (2) \$42,227,000,000 for fiscal year 2013.

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

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

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

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

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

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

12 (6) sections 1103 through 1108 of the Inter-
13 modal Surface Transportation Efficiency Act of
14 1991 (105 Stat. 2027);

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

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

21 (9) Federal-aid highway programs for which ob-
22 ligation authority was made available under the
23 Transportation Equity Act for the 21st Century
24 (112 Stat. 107) or subsequent Acts for multiple
25 years or to remain available until expended, but only

1 to the extent that the obligation authority has not
2 lapsed or been used;

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

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

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

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

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

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

1 (B) amounts authorized for the Bureau of
2 Transportation Statistics;

3 (2) shall not distribute an amount of obligation
4 authority provided by subsection (a) that is equal to
5 the unobligated balance of amounts made available
6 from the Highway Trust Fund (other than the Mass
7 Transit Account) for Federal-aid highway and high-
8 way safety construction programs for previous fiscal
9 years the funds for which are allocated by the Sec-
10 retary;

11 (3) shall determine the proportion that—

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

16 (B) the total of the sums authorized to be
17 appropriated for the Federal-aid highway and
18 highway safety construction programs (other
19 than sums authorized to be appropriated for
20 provisions of law described in paragraphs (1)
21 through (11) of subsection (b) and sums au-
22 thorized to be appropriated for section 119 of
23 title 23, United States Code, equal to the
24 amount referred to in subsection (b)(12) for the
25 fiscal year), less the aggregate of the amounts

1 not distributed under paragraphs (1) and (2) of
2 this subsection;

3 (4) shall distribute the obligation authority pro-
4 vided by subsection (a), less the aggregate amounts
5 not distributed under paragraphs (1) and (2), for
6 each of the programs that are allocated by the Sec-
7 retary under this Act and title 23, United States
8 Code (other than to programs to which paragraph
9 (1) applies), by multiplying—

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

12 (B) the amounts authorized to be appro-
13 priated for each such program for the fiscal
14 year; and

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

1 (A) amounts authorized to be appropriated
2 for the programs that are apportioned under
3 title 23, United States Code, to each State for
4 the fiscal year; bears to

5 (B) the total of the amounts authorized to
6 be appropriated for the programs that are ap-
7 portioned under title 23, United States Code, to
8 all States for the fiscal year.

9 (d) REDISTRIBUTION OF UNUSED OBLIGATION AU-
10 THORITY.—Notwithstanding subsection (c), the Secretary
11 shall, after August 1 of each of fiscal years 2012 through
12 2013—

13 (1) revise a distribution of the obligation au-
14 thority made available under subsection (c) if an
15 amount distributed cannot be obligated during that
16 fiscal year; and

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

24 (e) APPLICABILITY OF OBLIGATION LIMITATIONS TO
25 TRANSPORTATION RESEARCH PROGRAMS.—

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

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

8 (B) title II of this Act.

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

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

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

17 (f) REDISTRIBUTION OF CERTAIN AUTHORIZED
18 FUNDS.—

19 (1) IN GENERAL.—Not later than 30 days after
20 the date of distribution of obligation authority under
21 subsection (c) for each of fiscal years 2012 through
22 2013, the Secretary shall distribute to the States
23 any funds that—

1 (A) are authorized to be appropriated for
 2 the fiscal year for Federal-aid highway pro-
 3 grams; and

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

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

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

17 **SEC. 1103. DEFINITIONS.**

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

20 (1) by striking paragraphs (6), (7), (9), (12),
 21 (19), (20), (24), (25), (26), (28), (38), and (39);

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

1 (9), (12), (13), (14), (15), (16), (17), (18), (19),
 2 (20), (21), (22), (23), (24), (25), (26), (28), (29),
 3 (33), and (34), respectively;

4 (3) by inserting after paragraph (1) the fol-
 5 lowing:

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

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

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

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

23 “(A) preliminary engineering, engineering,
 24 and design-related services directly relating to
 25 the construction of a highway project, including

1 engineering, design, project development and
 2 management, construction project management
 3 and inspection, surveying, mapping (including
 4 the establishment of temporary and permanent
 5 geodetic control in accordance with specifica-
 6 tions of the National Oceanic and Atmospheric
 7 Administration), and architectural-related serv-
 8 ices;”;

9 (C) in subparagraph (B)—

10 (i) by inserting “reconstruction,” be-
 11 fore “resurfacing”; and

12 (ii) by striking “and rehabilitation”
 13 and inserting “rehabilitation, and preserva-
 14 tion”;

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

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

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

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

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

24 (6) by inserting after paragraph (6) (as so re-
 25 designated) the following:

1 “(7) FEDERAL LANDS ACCESS TRANSPOR-
 2 TATION FACILITY.—The term ‘Federal Lands access
 3 transportation facility’ means a public highway,
 4 road, bridge, trail, or transit system that is located
 5 on, is adjacent to, or provides access to Federal
 6 lands for which title or maintenance responsibility is
 7 vested in a State, county, town, township, tribal,
 8 municipal, or local government.

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

18 (7) in paragraph (11)(B) by inserting “includ-
 19 ing public roads on dams” after “drainage struc-
 20 ture”;

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

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

24 (B) by inserting “air quality” before “at-
 25 tainment area”;

1 (9) in paragraph (18) (as so redesignated) by
 2 striking “an undertaking to construct a particular
 3 portion of a highway, or if the context so implies,
 4 the particular portion of a highway so constructed or
 5 any other undertaking” and inserting “any under-
 6 taking”;

7 (10) in paragraph (19) (as so redesignated)—
 8 (A) by striking “the State transportation
 9 department and”; and

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

12 (11) by striking paragraph (23) (as so redesign-
 13 ated) and inserting the following:

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

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

23 “(27) STATE STRATEGIC HIGHWAY SAFETY
 24 PLAN.—The term ‘State strategic highway safety

1 plan' has the same meaning given such term in sec-
2 tion 148(a).”;

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

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

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

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

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

17 “(D) Scenic or historic highways and
18 bridges.

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

22 “(F) Historic preservation, rehabilitation,
23 and operation of historic transportation build-
24 ings, structures, or facilities.

1 “(G) Preservation of abandoned railway
2 corridors, including the conversion and use of
3 the corridors for pedestrian or bicycle trails.

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

6 “(I) Archaeological planning and research.

7 “(J) Any environmental mitigation activ-
8 ity, including pollution prevention and pollution
9 abatement activities and mitigation to—

10 “(i) ~~to~~ address stormwater manage-
11 ment, control, and water pollution preven-
12 tion or abatement related to highway con-
13 struction or due to highway runoff, includ-
14 ing activities described in sections
15 133(b)(11), 328(a), and 329; or

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

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

22 “(30) TRANSPORTATION SYSTEMS MANAGE-
23 MENT AND OPERATIONS.—

24 “(A) IN GENERAL.—The term ‘transpor-
25 tation systems management and operations’

1 means integrated strategies to optimize the per-
2 formance of existing infrastructure through the
3 implementation of multimodal and intermodal,
4 cross-jurisdictional systems, services, and
5 projects designed to preserve capacity and im-
6 prove security, safety, and reliability of the
7 transportation system.

8 “(B) INCLUSIONS.—The term ‘transportation systems management and operations’ in-
9 cludes—
10

11 “(i) actions such as traffic detection
12 and surveillance, corridor management,
13 freeway management, arterial manage-
14 ment, active transportation and demand
15 management, work zone management,
16 emergency management, traveler informa-
17 tion services, congestion pricing, parking
18 management, automated enforcement, traf-
19 fic control, commercial vehicle operations,
20 freight management, and coordination of
21 highway, rail, transit, bicycle, and pedes-
22 trian operations; and

23 “(ii) coordination of the implementa-
24 tion of regional transportation system
25 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”.

1 **SEC. 1104. NATIONAL HIGHWAY SYSTEM.**

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

4 **“§ 103. National highway system**

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

8 “(b) NATIONAL HIGHWAY SYSTEM.—

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

12 “(A) serve major population centers, inter-
13 national border crossings, ports, airports, public
14 transportation facilities, and other intermodal
15 transportation facilities and other major travel
16 destinations;

17 “(B) meet national defense requirements;
18 and

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

21 “(2) COMPONENTS.—The National Highway
22 System described in paragraph (1) consists of the
23 following:

24 “(A) The National Highway System de-
25 picted on the map submitted by the Secretary
26 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.~~

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

“(D) A strategic highway network that—

1 “(i) consists of a network of highways
2 that are important to the United States
3 strategic defense policy, that provide de-
4 fense access, continuity, and emergency ca-
5 pabilities for the movement of personnel,
6 materials, and equipment in both peace-
7 time and wartime, and that were not in-
8 cluded on the National Highway System
9 before the date of enactment of the MAP-
10 21;

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

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

16 “(E) Major strategic highway network con-
17 nectors that—

18 “(i) consist of highways that provide
19 motor vehicle access between major mili-
20 tary installations and highways that are
21 part of the strategic highway network but
22 were not included on the National High-
23 way System before the date of enactment
24 of the MAP-21; and

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

4 “(3) MODIFICATIONS TO NHS.—

5 “(A) IN GENERAL.—The Secretary may
 6 make any modification, including any modifica-
 7 tion consisting of a connector to a major inter-
 8 modal terminal, to the National Highway Sys-
 9 tem that is proposed by a State if the Secretary
 10 determines that the modification—

11 “(i) meets the criteria established for
 12 the National Highway System under this
 13 title after the date of enactment of the
 14 MAP-21; and

15 “(ii) enhances the national transpor-
 16 tation characteristics of the National High-
 17 way System.

18 “(B) COOPERATION.—

19 “(i) IN GENERAL.—In proposing a
 20 modification under this paragraph, a State
 21 shall cooperate with local and regional offi-
 22 cials.

23 “(ii) URBANIZED AREAS.—In an ur-
 24 banized area, the local officials shall act
 25 through the metropolitan planning organi-

1 zation designated for the area under sec-
2 tion 134.

3 “(c) INTERSTATE SYSTEM.—

4 “(1) DESCRIPTION.—

5 “(A) IN GENERAL.—The Dwight D. Eisen-
6 hower National System of Interstate and De-
7 fense Highways within the United States (in-
8 cluding the District of Columbia and Puerto
9 Rico) consists of highways designed, located,
10 and selected in accordance with this paragraph.

11 “(B) DESIGN.—

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

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

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

1 “(i) to connect by routes, as direct as
2 practicable, the principal metropolitan
3 areas, cities, and industrial centers;

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

5 “(iii) to the maximum extent prac-
6 ticable, to connect at suitable border points
7 with routes of continental importance in
8 Canada and Mexico.

9 “(D) SELECTION OF ROUTES.—To the
10 maximum extent practicable, each route of the
11 Interstate System shall be selected by joint ac-
12 tion of the State transportation departments of
13 the State in which the route is located and the
14 adjoining States, in cooperation with local and
15 regional officials, and subject to the approval of
16 the Secretary.

17 “(2) MAXIMUM MILEAGE.—The mileage of
18 highways on the Interstate System shall not exceed
19 43,000 miles, exclusive of designations under para-
20 graph (4).

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

25 “(4) INTERSTATE SYSTEM DESIGNATIONS.—

1 “(A) ADDITIONS.—If the Secretary deter-
2 mines that a highway on the National Highway
3 System meets all standards of a highway on the
4 Interstate System and that the highway is a
5 logical addition or connection to the Interstate
6 System, the Secretary may, upon the affirma-
7 tive recommendation of the State or States in
8 which the highway is located, designate the
9 highway as a route on the Interstate System.

10 “(B) DESIGNATIONS AS FUTURE INTER-
11 STATE SYSTEM ROUTES.—

12 “(i) IN GENERAL.—Subject to clauses
13 (ii) through (vi), if the Secretary deter-
14 mines that a highway on the National
15 Highway System would be a logical addi-
16 tion or connection to the Interstate System
17 and would qualify for designation as a
18 route on the Interstate System under sub-
19 paragraph (A) if the highway met all
20 standards of a highway on the Interstate
21 System, the Secretary may, upon the af-
22 firmative recommendation of the State or
23 States in which the highway is located,
24 designate the highway as a future Inter-
25 state System route.

1 “(ii) WRITTEN AGREEMENT.—A des-
 2 ignation under clause (i) shall be made
 3 only upon the written agreement of each
 4 State described in that clause that the
 5 highway will be constructed to meet all
 6 standards of a highway on the Interstate
 7 System by not later than the date that is
 8 25 years after the date of the agreement.

9 “(iii) FAILURE TO COMPLETE CON-
 10 STRUCTION.—If a State described in clause
 11 (i) has not substantially completed the con-
 12 struction of a highway designated under
 13 this subparagraph by the date specified in
 14 clause (ii), the Secretary shall remove the
 15 designation of the highway as a future
 16 Interstate System route.

17 “(iv) EFFECT OF REMOVAL.—Re-
 18 moval of the designation of a highway
 19 under clause (iii) shall not preclude the
 20 Secretary from designating the highway as
 21 a route on the Interstate System under
 22 subparagraph (A) or under any other pro-
 23 vision of law providing for addition to the
 24 Interstate System.

1 “(v) RETROACTIVE EFFECT.—An
 2 agreement described in clause (ii) that is
 3 entered into before August 10, 2005, shall
 4 be deemed to include the 25-year time lim-
 5 itation described in that clause, regardless
 6 of any earlier construction completion date
 7 in the agreement.

8 “(vi) REFERENCES.—No law, rule,
 9 regulation, map, document, or other record
 10 of the United States, or of any State or
 11 political subdivision of a State, shall refer
 12 to any highway designated as a future
 13 Interstate System route under this sub-
 14 paragraph, and no such highway shall be
 15 signed or marked, as a highway on the
 16 Interstate System, until such time as the
 17 highway—

18 “(I) is constructed to the geo-
 19 metric and construction standards for
 20 the Interstate System; and

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

23 “(C) FINANCIAL RESPONSIBILITY.—Except
 24 as provided in this title, the designation of a
 25 highway under this paragraph shall create no

1 additional Federal financial responsibility with
2 respect to the highway.

3 “(5) EXEMPTION OF INTERSTATE SYSTEM.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), the Interstate System shall
6 not be considered to be a historic site under
7 section 303 of title 49 or section 138 of this
8 title, regardless of whether the Interstate Sys-
9 tem or portions or elements of the Interstate
10 System are listed on, or eligible for listing on,
11 the National Register of Historic Places.

12 “(B) INDIVIDUAL ELEMENTS.—Subject to
13 subparagraph (C)—

14 “(i) the Secretary shall determine,
15 through the administrative process estab-
16 lished for exempting the Interstate System
17 from section 106 of the National Historic
18 Preservation Act (16 U.S.C. 470f), those
19 individual elements of the Interstate Sys-
20 tem that possess national or exceptional
21 historic significance (such as a historic
22 bridge or a highly significant engineering
23 feature); and

24 “(ii) those elements shall be consid-
25 ered to be historic sites under section 303

1 of title 49 or section 138 of this title, as
 2 applicable.

3 “(C) CONSTRUCTION, MAINTENANCE, RES-
 4 TORATION, AND REHABILITATION ACTIVITIES.—
 5 Subparagraph (B) does not prohibit a State
 6 from carrying out construction, maintenance,
 7 *preservation*, restoration, or rehabilitation ac-
 8 tivities for a portion of the Interstate System
 9 referred to in subparagraph (B) upon compli-
 10 ance with section 303 of title 49 or section 138
 11 of this title, as applicable, and section 106 of
 12 the National Historic Preservation Act (16
 13 U.S.C. 470f).”.

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

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

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

22 “(B) truck-tractor, semi-trailer, or trailer
 23 combinations with each semi-trailer and trailer
 24 up to 28.5 feet in length and 102 inches in
 25 width; and

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

5 “(2) NATIONAL NETWORK.—The National Net-
 6 work designated under the Surface Transportation
 7 Assistance Act of 1982 (Public Law 97-424; 96
 8 Stat. 2119) is repealed.

9 “(3) OPERATION OF CONVENTIONAL COMBINA-
 10 TION VEHICLES.—

11 “(A) REQUIREMENT.—Conventional com-
 12 bination vehicles shall be permitted to operate
 13 in all States on all segments of the National
 14 Highway System other than segments—

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

17 “(ii) on which all nonpassenger com-
 18 mercial motor vehicles are banned on the
 19 date of enactment of the MAP-21.

20 “(B) RESTRICTIONS.—A State may re-
 21 quest temporary or permanent restrictions on
 22 the operation of conventional combination vehi-
 23 cles, subject to approval by the Secretary, based
 24 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~~

1 *Stat. 598) is amended by adding at the end the fol-*
 2 *lowing: “The routes referred to subparagraphs (A)(iii)*
 3 *and (B)(i) of subsection (c)(26) are designated as*
 4 *Interstate Route I-11.”.*

5 *(c) CONFORMING AMENDMENTS.—*

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

“103. National highway system.”.

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

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

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

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

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

1 and inserting “NATIONAL HIGHWAY PERFORMANCE
2 PROGRAM”.

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

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

10 **SEC. 1105. APPORTIONMENT.**

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

13 **“§ 104. Apportionment**

14 “(a) ADMINISTRATIVE EXPENSES.—

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

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

23 “(A) to administer the provisions of law to
24 be funded from appropriations for the Federal-

1 aid highway program and programs authorized
 2 under chapter 2;

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

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

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

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

24 “(1) NATIONAL HIGHWAY PERFORMANCE PRO-
 25 GRAM.—For the national highway performance pro-

1 gram, 58 percent of the amount remaining after dis-
 2 tributing amounts under paragraphs (4) and (6).

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

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

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

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

23 “(B) the total amount of funds appor-
 24 tioned to the State for that fiscal year for the
 25 programs referred to in section 105(a)(2) (ex-

1 cept for the high priority projects program re-
 2 ferred to in section 105(a)(2)(H)), as in effect
 3 on the day before the date of enactment of the
 4 MAP-21.

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

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

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

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

23 “(c) CALCULATION OF STATE AMOUNTS.—

24 “(1) STATE SHARE.—The amount for each
 25 State of combined apportionments for the national

1 highway performance program under section 119,
 2 the transportation mobility program under section
 3 133, the highway safety improvement program
 4 under section 148, the congestion mitigation and air
 5 quality improvement program under section 149, the
 6 national freight program under section 167, and to
 7 carry out section 134 shall be determined as follows:

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

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

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

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

1 State paid into the Highway Trust Fund (other
 2 than the Mass Transit Account) in the most re-
 3 cent fiscal year for which data are available.

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

15 “(d) METROPOLITAN PLANNING.—

16 “(1) USE OF AMOUNTS.—

17 “(A) USE.—

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

1 “(ii) STATES RECEIVING MINIMUM AP-
 2 PORTIONMENT.—A State that received the
 3 minimum apportionment for use in car-
 4 rying out section 134 for fiscal year 2009
 5 may, subject to the approval of the Sec-
 6 retary, use the funds apportioned under
 7 subsection (b)(6) to fund transportation
 8 planning outside of urbanized areas.

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

14 “(2) DISTRIBUTION OF AMOUNTS WITHIN
 15 STATES.—

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

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

22 “(ii) takes into consideration, at a
 23 minimum, population, status of planning,
 24 attainment of air quality standards, metro-
 25 politan area transportation needs, and

1 other factors necessary to provide for an
 2 appropriate distribution of funds to carry
 3 out section 134 and other applicable re-
 4 quirements of Federal law.

5 “(B) REIMBURSEMENT.—Not later than
 6 ~~10 days~~ *15 business days* after the date of re-
 7 ceipt by a State of a request for reimbursement
 8 of expenditures made by a metropolitan plan-
 9 ning organization for carrying out section 134,
 10 the State shall reimburse, from amounts dis-
 11 tributed under this paragraph to the metropoli-
 12 tan planning organization by the State, the
 13 metropolitan planning organization for those
 14 expenditures.

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

21 “(e) CERTIFICATION OF APPORTIONMENTS.—

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

23 “(A) on October 1 of each fiscal year, cer-
 24 tify to each of the State transportation depart-
 25 ments the amount that has been apportioned to

1 the State under this section for the fiscal year;
 2 and

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

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

22 “(3) APPORTIONMENT CALCULATIONS.—

23 “(A) IN GENERAL.—The calculation of of-
 24 ficial apportionments of funds to the States
 25 under this title is a primary responsibility of

1 the Department and shall be carried out only
 2 by employees (and not contractors) of the De-
 3 partment.

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

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

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

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

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

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

1 “(A) IN GENERAL.—Subject to subpara-
 2 graph (B), amounts made available for highway
 3 projects or transportation planning under chap-
 4 ter 53 of title 49 may be transferred to and ad-
 5 ministered by the Secretary in accordance with
 6 this title.

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

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

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

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

24 “(C) FUNDS SUBALLOCATED TO URBAN-
 25 IZED AREAS.—Amounts that are apportioned or

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

10 “(4) TRANSFER OF OBLIGATION AUTHORITY.—

11 Obligation authority for amounts transferred under
 12 this subsection shall be transferred in the same
 13 manner and amount as the amounts for the projects
 14 ~~that are transferred under this subsection.~~ *that are*
 15 *transferred under this section.”*

16 “(g) REPORT TO CONGRESS.—*For each fiscal year, the*
 17 *Secretary shall make available to the public, in a user-*
 18 *friendly format via the Internet, a report that describes—*

19 “(1) *the amount obligated, by each State, for*
 20 *Federal-aid highways and highway safety construc-*
 21 *tion programs during the preceding fiscal year;*

22 “(2) *the balance, as of the last day of the pre-*
 23 *ceding fiscal year, of the unobligated apportionment*
 24 *of each State by fiscal year under this section;*

1 “(3) the balance of unobligated sums available
2 for expenditure at the discretion of the Secretary for
3 such highways and programs for the fiscal year; and

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

6 “(A) program;

7 “(B) funding category of subcategory;

8 “(C) type of improvement;

9 “(D) State; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2 “(A) Construction, reconstruction, resur-
3 facing, restoration, rehabilitation, preservation,
4 or operational improvement of segments of the
5 National Highway System.

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

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

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

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

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

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

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

20 “(ii) the construction or improvements
21 will ~~enhance the level of service~~ *reduce*
22 *delays or produce travel time savings* on the
23 fully access-controlled highway described in
24 clause (i) and improve regional traffic flow;
25 and

1 “(iii) the construction or improve-
2 ments are more cost-effective, as deter-
3 mined by benefit-cost analysis, than an im-
4 provement to the fully access-controlled
5 highway described in clause (i).

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

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

10 “(J) Capital and operating costs for traffic
11 and traveler information monitoring, manage-
12 ment, and control facilities and programs.

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

21 “(L) Infrastructure-based intelligent trans-
22 portation systems capital improvements.

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

1 “(N) Control of noxious weeds and aquatic
2 noxious weeds and establishment of native spe-
3 cies in accordance with section 329.

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

19 “(i) contributions to those mitigation
20 efforts may—

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

24 “(II) occur in advance of project
25 construction only if the efforts are

1 consistent with all applicable require-
 2 ments of Federal law (including regu-
 3 lations) and State transportation
 4 planning processes; and

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

16 “(e) LIMITATION ON NEW CAPACITY.—

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

1 exceed 40 percent of the combined apportionments
 2 of a State under section 104(b)(1) for the most re-
 3 cent 3 consecutive fiscal years.

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

11 “(f) STATE PERFORMANCE MANAGEMENT.—

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

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

1 *and supporting the progress toward the achievement*
 2 *of the* national goals identified in section 150.

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

7 “(A) a summary listing of the ~~highway in-~~
 8 ~~frast~~rastructure *pavement and bridge* assets on the
 9 National Highway System in the State, includ-
 10 ing a description of the condition of those as-
 11 sets;

12 “(B) asset management objectives and
 13 measures;

14 “(C) performance gap identification;

15 “(D) lifecycle cost and risk management
 16 analysis;

17 “(E) a financial plan; and

18 “(F) investment strategies.

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

1 “(A) minimum standards for States to use
2 in developing and operating pavement manage-
3 ment systems and bridge management systems;

4 “(B) measures for States to use to as-
5 sess—

6 “(i) the condition of pavements on the
7 Interstate system;

8 “(ii) the condition of pavements on
9 the National Highway System (excluding
10 the Interstate);

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

13 “(iv) the performance of the Inter-
14 state System; and

15 “(v) the performance of the National
16 Highway System (excluding the Interstate
17 System);

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

25 “(D) minimum levels for—

1 “(i) the condition of pavement on the
2 Interstate System; and

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

5 “(4) STANDARDS AND MEASURES.—

6 “(A) IN GENERAL.—Subject to subpara-
7 graph (B), not later than 18 months after the
8 date of enactment of the MAP-21, the Secretary
9 shall, in consultation with State departments of
10 transportation and other stakeholders, estab-
11 lish—

12 “(i) minimum standards for States to
13 use in developing and operating pavement
14 management systems and bridge manage-
15 ment systems;

16 “(ii) measures for States to use to as-
17 sess—

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

20 “(II) the condition of pavements
21 on the National Highway System (ex-
22 cluding the Interstate);

23 “(III) the condition of bridges on
24 the National Highway System;

1 “(IV) the performance of the
2 Interstate System; and

3 “(V) the performance of the Na-
4 tional Highway System (excluding the
5 Interstate System);

6 “(iii) the data elements that are nec-
7 essary to collect and maintain data, and a
8 standardized process for collection and shar-
9 ing of data with appropriate governmental
10 entities at the Federal, State, and local lev-
11 els (including metropolitan planning orga-
12 nizations), to carry out paragraph (5); and

13 “(iv) minimum levels for—

14 “(I) the condition of pavement on
15 the Interstate System; and

16 “(II) the condition of bridges on
17 the National Highway System.

18 “(B) STATE PARTICIPATION.—In carrying
19 out subparagraph (A), the Secretary shall—

20 “(i) provide States not less than 90
21 days to comment on any regulation pro-
22 posed by the Secretary under that subpara-
23 graph; and

24 “(ii) take into consideration any com-
25 ments of the States relating to a proposed

1 *regulation received during that comment pe-*
 2 *riod.*

3 “(5) STATE PERFORMANCE TARGETS.—

4 “(A) ESTABLISHMENT OF TARGETS.—Not
 5 later than 1 year after the date on which the
 6 Secretary promulgates *final* regulations under
 7 paragraph (4), each State, in consultation with
 8 metropolitan planning organizations, shall es-
 9 tablish targets that address each of the per-
 10 formance measures identified in paragraph
 11 (4)(B).

12 “(B) PERIODIC UPDATES.—Each State
 13 shall periodically update the targets established
 14 under subparagraph (A).

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

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

22 “(B) State targets that address the per-
 23 formance measures identified in paragraph
 24 (4)(B).

1 “(7) CERTIFICATION OF PLAN DEVELOPMENT
2 PROCESS.—

3 “(A) IN GENERAL.—Not later than 90
4 days after the date on which a State submits a
5 request for approval of the process used by the
6 State to develop the State asset management
7 plan for the National Highway System, the Sec-
8 retary shall—

9 “(i) review the process; and

10 “(ii)(I) certify that the process meets
11 the requirements established by the Sec-
12 retary; or

13 “(II) deny certification and specify ac-
14 tions necessary for the State to take to
15 correct deficiencies in the State process.

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

23 “(C) OPPORTUNITY TO CURE.—*If the Sec-*
24 *retary denies certification under subparagraph*
25 *(A), the Secretary shall provide the State with—*

1 “(i) *not less than 90 days to cure the*
 2 *deficiencies of the plan, during which time*
 3 *period all penalties and other legal impacts*
 4 *of a denial of certification shall be stayed;*
 5 *and*

6 “(ii) *a written statement of the specific*
 7 *actions the Secretary determines to be nec-*
 8 *essary for the State to cure the plan.*

9 “(8) PERFORMANCE REPORTS.—

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

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

16 “(ii) progress in achieving State tar-
 17 gets for each of the performance measures
 18 for the National Highway System; and

19 “(iii) the effectiveness of the invest-
 20 ment strategy documented in the State
 21 asset management plan for the National
 22 Highway System.

23 “(B) FAILURE TO ACHIEVE TARGETS.—A
 24 State that does not achieve or make significant
 25 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 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), ~~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 except that for each year after fiscal year 2013, the amount required to be obligated under this clause shall be increased by 2 percent over the amount required 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 Interstate maintenance program for the purposes described in this

1 section (as in effect on the day before the
2 date of enactment of the MAP-21).

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

11 “(2) CONDITION OF NHS BRIDGES.—

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

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

1 for the purposes described in section 144
2 (as in effect on the day before the date of
3 enactment of the MAP-21), except that
4 the amount reserved under this clause
5 shall be increased by 2 percent over the
6 amount reserved in the previous fiscal year
7 for each year after fiscal year 2013; and

8 “(i) to obligate, from the amounts ap-
9 portioned to the State under section
10 104(b)(1), an amount for bridges on the Na-
11 tional Highway System that is not less
12 than 50 percent of the amount of funds ap-
13 portioned to the State for fiscal year 2009
14 under the highway bridge program for the
15 purposes described in section 144 (as in ef-
16 fect on the day before the date of enactment
17 of the MAP-21), except that for each year
18 after fiscal year 2013, the amount required
19 to be obligated under this clause shall be in-
20 creased by 2 percent over the amount re-
21 quired to be obligated in the previous fiscal
22 year; and

23 “(ii) to transfer, from the amounts
24 apportioned to the State under section
25 104(b)(2) to the apportionment of the

1 State under section 104(b)(1), an amount
 2 equal to 10 percent of the amount of funds
 3 apportioned to the State for fiscal year
 4 2009 under the highway bridge program
 5 for the purposes described in section 144
 6 (as in effect on the day before the date of
 7 enactment of the MAP-21).

8 “(B) RESTORATION.—The obligation re-
 9 quirement for bridges on the National Highway
 10 System in a State required by subparagraph
 11 (A) for a fiscal year shall remain in effect for
 12 each subsequent fiscal year until such time as
 13 the condition of bridges on the National High-
 14 way System in the State exceeds the minimum
 15 condition level established by the Secretary
 16 *under subsection (f)(4)(D).*”.

17 (b) TRANSITION PERIOD.—

18 (1) IN GENERAL.—Except as provided in para-
 19 graph (2), until such date as a State has in effect
 20 an approved asset management plan and has estab-
 21 lished performance targets as described in section
 22 119 of title 23, United States Code, that will con-
 23 tribute to achieving the national goals for the condi-
 24 tion and performance of the National Highway Sys-
 25 tem, but not later than ~~15~~ 18 months after the date

1 on which the Secretary promulgates *final* regulations
 2 required under section 119(f)(4) of that title, the
 3 Secretary shall approve obligations of funds appor-
 4 tioned to a State to carry out the national highway
 5 performance program under section 119 of that title,
 6 for projects that otherwise meet the requirements of
 7 that section.

8 (2) EXTENSION.—The Secretary may extend
 9 the transition period for a State under paragraph
 10 (1) if the Secretary determines that the State has
 11 made a good faith effort to establish an asset man-
 12 agement plan and performance targets referred to in
 13 that paragraph.

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

“119. National highway performance program.”.

18 **SEC. 1107. EMERGENCY RELIEF.**

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

21 **“§ 125. Emergency relief**

22 “(a) IN GENERAL.—Subject to this section and sec-
 23 tion 120, an emergency fund is authorized for expenditure
 24 by the Secretary for the repair or reconstruction of high-
 25 ways, roads, and trails, in any area of the United States,

1 including Indian reservations, that the Secretary finds
2 have suffered serious damage as a result of—

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

6 “(2) catastrophic failure from any external
7 cause.

8 “(b) RESTRICTION ON ELIGIBILITY.—

9 “(1) DEFINITION OF CONSTRUCTION PHASE.—

10 In this subsection, the term ‘construction phase’
11 means the phase of physical construction of a high-
12 way or bridge facility that is separate from any
13 other identified phases, such as planning, design, or
14 right-of-way phases, in the State transportation im-
15 provement program.

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

19 “(A) that has been permanently closed to
20 all vehicular traffic by the State or responsible
21 local official because of imminent danger of col-
22 lapse due to a structural deficiency or physical
23 deterioration; or

24 “(B) if a construction phase of a replace-
25 ment structure is included in the approved

1 Statewide transportation improvement program
2 at the time of an event described in subsection
3 (a).

4 “(c) FUNDING.—

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

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

14 “(A) not more than \$100,000,000 is au-
15 thorized to be obligated in any 1 fiscal year
16 commencing after September 30, 1980, to carry
17 out this section, except that, if for any fiscal
18 year the total of all obligations under this sec-
19 tion is less than the amount authorized to be
20 obligated for the fiscal year, the unobligated
21 balance of that amount shall—

22 “(i) remain available until expended;
23 and

1 “(ii) be in addition to amounts other-
 2 wise available to carry out this section for
 3 each year; and

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

11 “(ii) funds obligated under this subpara-
 12 graph shall be reimbursed from the appropria-
 13 tion or replenishment.

14 “(d) ELIGIBILITY.—

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

20 “(A) no funds shall be so expended unless
 21 an emergency has been declared by the Gov-
 22 ernor of the State with concurrence by the Sec-
 23 retary, unless the President has declared the
 24 emergency to be a major disaster for the pur-
 25 poses of the Robert T. Stafford Disaster Relief

1 and Emergency Assistance Act (42 U.S.C. 5121
2 et seq.) for which concurrence of the Secretary
3 is not required; and

4 “(B) the Secretary has received an applica-
5 tion from the State transportation department
6 that includes a comprehensive list of all eligible
7 project sites and repair costs by not later than
8 2 years after the natural disaster or cata-
9 strophic failure.

10 “(2) COST LIMITATION.—

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

20 “(B) LIMITATION.—The total cost of a
21 project funded under this section may not ex-
22 ceed the cost of repair or reconstruction of a
23 comparable facility.

24 “(3) DEBRIS REMOVAL.—The costs of debris
25 removal shall be an eligible expense only for events

1 not eligible for assistance pursuant to the Robert T.
2 Stafford Disaster Relief and Emergency Assistance
3 Act (42 U.S.C. 5121 et seq.).

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

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

17 “(e) TRIBAL TRANSPORTATION FACILITIES, FED-
18 ERAL LANDS TRANSPORTATION FACILITIES, AND PUBLIC
19 ROADS ON FEDERAL LANDS.—

20 “(1) DEFINITION OF OPEN TO PUBLIC TRAV-
21 EL.—In this subsection, the term ‘open to public
22 travel’ means, with respect to a road, that, except
23 during scheduled periods, extreme weather condi-
24 tions, or emergencies, the road is open to the general
25 public for use with a standard passenger vehicle,

1 without restrictive gates or prohibitive signs or regu-
2 lations, other than for general traffic control or re-
3 strictions based on size, weight, or class of registra-
4 tion.

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

16 “(3) REIMBURSEMENT.—

17 “(A) IN GENERAL.—The Secretary may re-
18 imburse Federal and State agencies (including
19 political subdivisions) for expenditures made for
20 projects determined eligible under this section,
21 including expenditures for emergency repairs
22 made before a determination of eligibility.

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

1 “(i) those reimbursements to Federal
 2 agencies and Indian tribal governments
 3 shall be transferred to the account from
 4 which the expenditure was made, or to a
 5 similar account that remains available for
 6 obligation; and

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

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

19 **SEC. 1108. TRANSPORTATION MOBILITY PROGRAM.**

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

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

23 “(a) ESTABLISHMENT.—The Secretary shall estab-
 24 lish and implement a transportation mobility program
 25 under this section.

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

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

9 “(1) Construction, reconstruction, rehabilita-
10 tion, resurfacing, restoration, preservation, or oper-
11 ational improvements for highways, including con-
12 struction of designated routes of the Appalachian de-
13 velopment highway system.

14 “(2) Replacement (including replacement with
15 fill material), rehabilitation, preservation, protection
16 (including painting, scour countermeasures, seismic
17 retrofits, impact protection measures, security coun-
18 termeasures, and protection against extreme events)
19 and application of calcium magnesium acetate, so-
20 dium acetate/formate, or other environmentally ac-
21 ceptable, minimally corrosive anti-icing and deicing
22 compositions for bridges (and approaches to bridges
23 and other elevated structures) and tunnels on public
24 roads of all functional classifications, including any

1 such construction or reconstruction necessary to ac-
2 commodate other transportation modes.

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

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

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

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

20 “(7) Carpool projects, fringe and corridor park-
21 ing facilities and programs, including electric vehicle
22 infrastructure in accordance with section 137, bicy-
23 cle transportation and pedestrian walkways in ac-
24 cordance with section 217, and the modification of

1 public sidewalks to comply with the Americans with
2 Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

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

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

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

14 “(11) Projects and strategies designed to sup-
15 port congestion pricing, including electronic toll col-
16 lection and travel demand management strategies
17 and programs.

18 “(12) Surface transportation planning.

19 “(13) Transportation enhancement activities.

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

22 “(15) Construction of ferry boats and ferry ter-
23 minal facilities eligible for funding under section
24 129(c).

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

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

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

9 “(19) Safe routes to school projects eligible for
10 funding under section 1404 of the SAFETEA–LU
11 (23 U.S.C. 402 note; Public Law 109–59).

12 “(20) Transportation control measures de-
13 scribed in section 108(f)(1)(A) of the Clean Air Act
14 (42 U.S.C. 7408(f)(1)(A)), other than section
15 108(f)(1)(A)(xvi) of that Act.

16 “(21) Development and implementation of a
17 State asset management plan for the National High-
18 way System in accordance with section 119, includ-
19 ing data collection, maintenance, and integration
20 and the costs associated with obtaining, updating,
21 and licensing software and equipment required for
22 risk-based asset management and performance-based
23 management, and for similar activities relating to
24 the development and implementation of a perform-

1 ance-based management ~~system~~ *program* for other
2 public roads.

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

16 “(A) contributions to those mitigation ef-
17 forts may—

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

20 “(ii) occur in advance of project con-
21 struction only if the efforts are consistent
22 with all applicable requirements of Federal
23 law (including regulations) and State
24 transportation planning processes; and

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

11 “(23) Infrastructure-based intelligent transpor-
12 tation systems capital improvements.

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

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

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

22 “(A) the project will make significant im-
23 provement to freight movements on the national
24 freight network;

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

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

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

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

15 “(B) *on which federally owned vehicles com-*
16 *prise more than 50 percent of the traffic.*

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

20 “(A) *the public road, and the highway*
21 *project to be carried out with respect to the pub-*
22 *lic road, are in the same corridor as, and in*
23 *proximity to—*

1 “(i) a fully access-controlled highway
2 designated as a part of the National High-
3 way System; or

4 “(ii) in areas with a population of less
5 than 200,000, a federal-aid highway des-
6 ignated as part of the National Highway
7 System;

8 “(B) the construction or improvements will
9 enhance the level of service on the highway de-
10 scribed in subparagraph (A) and improve re-
11 gional traffic flow; and

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

16 “(d) ALLOCATIONS OF APPORTIONED FUNDS TO
17 AREAS BASED ON POPULATION.—

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

20 “(A) 50 percent for a fiscal year shall be
21 obligated under this section, in proportion to
22 their relative shares of the population of the
23 State—

1 “(i) in urbanized areas of the State
2 with an urbanized area population of over
3 200,000;

4 “(ii) in areas of the State other than
5 urban areas with a population greater than
6 5,000; and

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

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

10 “(2) METROPOLITAN AREAS.—Funds attributed
11 to an urbanized area under subparagraph (A)(i) may
12 be obligated in the metropolitan area established
13 under section 134 that encompasses the urbanized
14 area.

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

17 “(A) IN GENERAL.—Except as provided in
18 subparagraph (B), the amount of funds that a
19 State is required to obligate under paragraph
20 (1)(A)(i) shall be obligated in urbanized areas
21 described in paragraph (1)(A)(i) based on the
22 relative population of the areas.

23 “(B) OTHER FACTORS.—The State may
24 obligate the funds described in subparagraph
25 (A) based on other factors if the State and the

1 relevant metropolitan planning organizations
 2 jointly apply to the Secretary for the permission
 3 to base the obligation on other factors and the
 4 Secretary grants the request.

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

11 “(f) APPLICABILITY OF PLANNING REQUIRE-
 12 MENTS.—Programming and expenditure of funds for
 13 projects under this section shall be consistent with sections
 14 134 and 135.

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

16 “(1) DEFINITION OF OFF-SYSTEM BRIDGE.—
 17 The term ‘off-system bridge’ means a highway
 18 bridge located on a public road, other than a bridge
 19 on a Federal-aid highway.

20 “(2) SPECIAL RULE.—

21 ~~“(A) PENALTY.—If the total deck area of~~
 22 ~~deficient off-system bridges in a State increases~~
 23 ~~for the 2 most recent consecutive years, the~~
 24 ~~State shall be required, during the following fis-~~
 25 ~~cal year, to obligate for the improvement of de-~~

1 deficient off-system bridges from the amounts ap-
 2 portioned to the State under section 104(b)(2)
 3 an amount that is not less than 110 percent of
 4 the amount of funds required to be obligated by
 5 the State for off-system bridges for fiscal year
 6 2009 under section 144(f)(2), as in effect on
 7 the day before the date of enactment of the
 8 MAP-21, except that the amount reserved
 9 under this subparagraph shall be increased by
 10 2 percent over the amount reserved in the pre-
 11 vious fiscal year for each year after fiscal year
 12 2013.

13 “(A) *PENALTY.*—If the total deck area of de-
 14 ficient off-system bridges in a State increases for
 15 the 2 most recent consecutive years, the State
 16 shall be required, during the following fiscal
 17 year, to obligate for the improvement of deficient
 18 off-system bridges from the amounts apportioned
 19 to the State under section 104(b)(2) an amount
 20 that is not less than 110 percent of the amount
 21 of funds required to be obligated by the State for
 22 off-system bridges for fiscal year 2009 under sec-
 23 tion 144(f)(2), as in effect on the day before the
 24 date of enactment of the MAP-21, except that for
 25 each year after fiscal year 2013, the amount re-

1 *quired to be obligated under this subparagraph*
2 *shall be increased by 2 percent over the amount*
3 *required to be obligated in the previous fiscal*
4 *year.*

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

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

1 referred to in paragraph (1)(B) as the State deter-
 2 mines to be necessary.

3 “(3) *EFFECT OF APPROVAL BY THE SEC-*
 4 *RETARY.—Approval by the Secretary of a project*
 5 *agreement under paragraph (1) shall be deemed a*
 6 *contractual obligation of the United States to pay*
 7 *transportation mobility program funds made avail-*
 8 *able under this title.”.*

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

“133. Transportation mobility program.”.

13 **SEC. 1109. WORKFORCE DEVELOPMENT.**

14 (a) ON-THE-JOB TRAINING.—Section 140(b) of title
 15 23, United States Code, is amended—

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

20 (2) by striking “the surface transportation pro-
 21 gram under section 104(b) and the bridge program
 22 under section 144” and inserting “the transpor-
 23 tation mobility program under section 104(b)”.

24 (b) DISADVANTAGED BUSINESS ENTERPRISE.—Sec-
 25 tion 140(c) of title 23, United States Code, is amended

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

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

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

7 (1) in subsection (b)—

8 (A) by striking paragraph (2) and insert-
 9 ing the following:

10 “(2) FUNDING.—

11 “(A) IN GENERAL.—From administrative
 12 funds made available under section 104(a), the
 13 Secretary shall deduct such sums as are nec-
 14 essary, not to exceed \$10,000,000 for ~~each fis-~~
 15 ~~cal year~~ *each of fiscal years 2012 and 2013*, to
 16 carry out this section.

17 “(B) ALLOCATION OF FUNDS.—Funds
 18 made available to carry out this section may be
 19 allocated to the Internal Revenue Service and
 20 the States at the discretion of the Secretary, ex-
 21 cept that of funds so made available for each
 22 fiscal year, \$2,000,000 shall be available only to
 23 carry out intergovernmental enforcement ef-
 24 forts, including research and training.”; and

25 (B) in paragraph (8)—

1 (i) in the paragraph heading by strik-
 2 ing “SURFACE TRANSPORTATION PRO-
 3 GRAM” and inserting “TRANSPORTATION
 4 MOBILITY PROGRAM”; and

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

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

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

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

14 **“§ 144. National bridge and tunnel inventory and in-**
 15 **spection standards**

16 **“(a) FINDINGS AND DECLARATIONS.—**

17 **“(1) FINDINGS.—Congress finds that—**

18 **“(A) the condition of the bridges of the**
 19 **United States has improved since the date of**
 20 **enactment of the Transportation Equity Act for**
 21 **the 21st Century (Public Law 105–178; 112**
 22 **Stat. 107), yet continued improvement to**
 23 **bridge conditions is essential to protect the**
 24 **safety of the traveling public and allow for the**
 25 **efficient movement of people and goods on**

1 which the economy of the United States relies;
2 and

3 “(B) the systematic preventative mainte-
4 nance of bridges, and replacement and rehabili-
5 tation of deficient bridges, should be under-
6 taken through an overall asset management ap-
7 proach to transportation investment.

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

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

13 “(B) to use a data-driven, risk-based ap-
14 proach and cost-effective strategy for systematic
15 preventative maintenance, replacement, and re-
16 habilitation of highway bridges and tunnels to
17 ensure safety and extended service life;

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

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

23 “(E) to ensure connectivity and access for
24 residents of rural areas of the United States
25 through strategic investments in National High-

1 way System bridges and bridges on all public
2 roads.

3 “(b) NATIONAL BRIDGE AND TUNNEL INVEN-
4 TORIES.—

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

7 “(A) inventory all highway bridges on pub-
8 lic roads that are bridges over waterways, other
9 topographical barriers, other highways, and
10 railroads;

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

18 “(C) based on that classification, assign
19 each a risk-based priority for systematic pre-
20 ventative maintenance, replacement, or rehabili-
21 tation.

22 “(2) TRIBALLY OWNED AND FEDERALLY
23 OWNED BRIDGES.—As part of the activities carried
24 out under paragraph (1), the Secretary, in consulta-

1 tion with the Secretaries of appropriate Federal
2 agencies, shall—

3 “(A) inventory all tribally owned and Fed-
4 erally owned highway bridges that are open to
5 the public, over waterways, other topographical
6 barriers, other highways, and railroads;

7 “(B) classify the bridges according to serv-
8 iceability, safety, and essentiality for public use;
9 and

10 “(C) based on the classification, assign
11 each a risk-based priority for systematic pre-
12 ventative maintenance, replacement, or rehabili-
13 tation.

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

18 “(c) GENERAL BRIDGE AUTHORITY.—

19 “(1) IN GENERAL.—Except as provided in para-
20 graph (2) and notwithstanding any other provision
21 of law, the General Bridge Act of 1946 (33 U.S.C.
22 525 et seq.) shall apply to bridges authorized to be
23 replaced, in whole or in part, by this title.

24 “(2) EXCEPTION.—Section 502(b) of the Gen-
25 eral 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-

1 port element level data to the Secretary, as each
 2 bridge is inspected pursuant to this section, for all
 3 highway bridges on the National Highway System.

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

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

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

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

19 “(e) BRIDGES WITHOUT TAXING POWERS.—

20 “(1) IN GENERAL.—Notwithstanding any other
 21 provision of law, any bridge that is owned and oper-
 22 ated by an agency that does not have taxing powers
 23 and whose functions include operating a federally as-
 24 sisted public transit system subsidized by toll reve-
 25 nues shall be eligible for assistance under this title,

1 but the amount of such assistance shall in no event
2 exceed the cumulative amount which such agency
3 has expended for capital and operating costs to sub-
4 sidize such transit system.

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

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

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

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

1 “(A) any low water crossing (regardless of
2 the length of the low water crossing);

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

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

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

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

15 “(g) HISTORIC BRIDGES.—

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

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

24 “(3) STATE INVENTORY.—The Secretary shall
25 require each State to complete an inventory of all

1 bridges on and off Federal-aid highways to deter-
2 mine the historic significance of the bridges.

3 “(4) ELIGIBILITY.—

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

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

20 “(5) PRESERVATION.—Any State that proposes
21 to demolish a historic bridge for a replacement
22 project with funds made available to carry out this
23 section shall first make the historic bridge available
24 for donation to a State, locality, or responsible pri-

1 vate entity if the State, locality, or responsible entity
2 enters into an agreement—

3 “(A) to maintain the bridge and the fea-
4 tures that give the historic bridge its historic
5 significance; and

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

11 “(6) COSTS INCURRED.—

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

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

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

25 “(1) REQUIREMENT.—

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

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

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

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

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

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

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

23 “(i) written reports on the results of
24 highway bridge and tunnel inspections and

1 notations of any action taken pursuant to
2 the findings of the inspections; and

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

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

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

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

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

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

20 “(B) establish, in consultation with the
21 States, and interested and knowledgeable pri-
22 vate organizations and individuals, procedures
23 for States to follow in reporting to the Sec-
24 retary—

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

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

7 “(4) REVIEWS OF STATE COMPLIANCE.—

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

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

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

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

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

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

4 “(5) PENALTY FOR NONCOMPLIANCE.—

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

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

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

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

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

1 the Secretary shall update inspection standards to
 2 cover—

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

5 “(B) the frequency of inspection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 “(xiii) Transportation safety planning.

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

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

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

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

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

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

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

9 “(xxi) A road safety audit.

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

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

21 “(xxiv) Systemic safety improvements.

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

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

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

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

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

18 “(9) SAFETY DATA.—

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

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

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

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

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

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

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

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

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

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

6 “(A) is developed after consultation with—

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

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

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

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

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

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

22 “(vii) motor vehicle administration
23 agencies;

24 “(viii) county transportation officials;
25 and

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

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

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

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

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

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

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

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

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

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

6 “(b) PROGRAM.—

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

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

14 “(c) ELIGIBILITY.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 “(ii) using such criteria as the State
 2 determines to be appropriate, establish the
 3 relative severity of those locations, in terms
 4 of crashes (*including crash rates*), fatali-
 5 ties, serious injuries, traffic volume levels,
 6 and other relevant data;

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

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

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

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

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

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

23 “(iii) are coordinated with other State
 24 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

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

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

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

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

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

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

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

24 “(1) ESTABLISHMENT OF REQUIREMENTS.—

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

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

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

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

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

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

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

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

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

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

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

8 “(A) IN GENERAL.—Each State shall—

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

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

16 “(B) REQUIREMENTS FOR APPROVAL.—

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

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

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

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

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

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

24 “(e) ELIGIBLE PROJECTS.—

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

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

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

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

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

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

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

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

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

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

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

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

15 “(g) DATA IMPROVEMENT.—

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

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

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

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

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

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

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

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

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

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

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

1 improvement activities under this subsection;
2 and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 “(i) SPECIAL RULES.—

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

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

21 “(2) *RAIL-HIGHWAY GRADE CROSSINGS.—If the*
 22 ~~average number of fatalities at rail-highway grade~~
 23 ~~crossings in a State over the most recent 2-year pe-~~
 24 ~~riod for which data are available increases over the~~
 25 ~~average number of fatalities during the preceding 2-~~

1 *year period, that State shall be required to obligate*
 2 *in the next fiscal year for projects on rail-highway*
 3 *grade crossings an amount equal to 120 percent of the*
 4 *amount of funds the State received for fiscal year*
 5 *2009 for rail-highway grade crossings under section*
 6 *130(f) (as in effect on the day before the date of enact-*
 7 *ment of the MAP-21).*

8 “(j) REPORTS.—

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

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

14 “(B) describes progress being made to im-
 15 plement highway safety improvement projects
 16 under this section;

17 “(C) assesses the effectiveness of those im-
 18 provements; and

19 “(D) describes the extent to which the im-
 20 provements funded under this section have con-
 21 tributed to reducing—

22 “(i) the number and rate of fatalities
 23 on all public roads with, to the maximum
 24 extent practicable, a breakdown by func-

1 tional classification and ownership in the
2 State;

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

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

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

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

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

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

21 “(4) DISCOVERY AND ADMISSION INTO EVI-
22 DENCE OF CERTAIN REPORTS, SURVEYS, AND INFOR-
23 MATION.—Notwithstanding any other provision of
24 law, reports, surveys, schedules, lists, or data com-
25 piled or collected for any purpose relating to this

1 section, shall not be subject to discovery or admitted
2 into evidence in a Federal or State court proceeding
3 or considered for other purposes in any action for
4 damages arising from any occurrence at a location
5 identified or addressed in the reports, surveys,
6 schedules, lists, or other data.

7 “(k) STATE PERFORMANCE TARGETS.—If the Sec-
8 retary determines that a State has not met or made sig-
9 nificant progress toward meeting the performance targets
10 of the State established under subsection (h) by the date
11 that is 2 years after the date of the establishment of the
12 performance targets, the State shall—

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

20 “(2) submit annually to the Secretary, until the
21 Secretary determines that the State has met or
22 made significant progress toward meeting the per-
23 formance targets of the State, an implementation
24 plan that—

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

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

6 “(C) describes how highway safety im-
7 provement program funds will be allocated, in-
8 cluding projects, activities, and strategies to be
9 implemented;

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

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

18 “(I) FEDERAL SHARE OF HIGHWAY SAFETY IM-
19 PROVEMENT PROJECTS.—Except as provided in sections
20 120 and 130, the Federal share of the cost of a highway
21 safety improvement project carried out with funds appor-
22 tioned to a State under section 104(b)(3) shall be 90 per-
23 cent.”.

1 **SEC. 1113. CONGESTION MITIGATION AND AIR QUALITY IM-**
 2 **PROVEMENT PROGRAM.**

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

5 **“§ 149. Congestion mitigation and air quality im-**
 6 **provement program**

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

10 “(b) ELIGIBLE PROJECTS.—

11 “(1) IN GENERAL.—Except as provided in sub-
 12 section (c), a State may obligate funds apportioned
 13 to the State for the congestion mitigation and air
 14 quality improvement program under section
 15 104(b)(4) that are not reserved under subsection (l)
 16 only for a transportation project or program if the
 17 project or program is for an area in the State that
 18 is or was designated as a nonattainment area for
 19 ozone, carbon monoxide, or particulate matter under
 20 section 107(d) of the Clean Air Act (42 U.S.C.
 21 7407(d)) and classified pursuant to section 181(a),
 22 186(a), 188(a), or 188(b) of the Clean Air Act (42
 23 U.S.C. 7511(a), 7512(a), 7513(a), or 7513(b)) or is
 24 or was designated as a nonattainment area under
 25 section 107(d) of that Act after December 31, 1997,
 26 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 consulta-
 tion with the Administrator determines, on the
 basis of information published by the Environ-
 mental Protection Agency pursuant to subpara-
 graph (A) of section 108(f)(1) of the Clean Air
 Act (other than clause (xvi) of that subpara-
 graph) (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 mainte-
 nance area; and

“(II) there exists a high level of effective-
 ness in reducing air pollution, in cases of
 projects or programs where sufficient informa-
 tion is available in the database established pur-
 suant 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 con-
 sultation, determines that the project or pro-

1 gram is part of a program, method, or strategy
2 described in such section 108(f)(1)(A);

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

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

15 “(D) if the program or project improves
16 traffic flow, including projects to improve sig-
17 nalization, construct high-occupancy vehicle
18 lanes, improve intersections, add turning lanes,
19 improve transportation systems management
20 and operations that mitigate congestion and im-
21 prove air quality, and implement intelligent
22 transportation system strategies and such other
23 projects that are eligible for assistance under
24 this section on the day before the date of enact-
25 ment of the MAP-21, including programs or

1 projects to improve incident and emergency re-
2 sponse or improve mobility, such as through
3 real-time traffic, transit, and multimodal trav-
4 eler information;

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

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

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

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

14 “(II) verified or certified tech-
15 nologies included in the list published
16 pursuant to subsection (f)(2), as in ef-
17 fect on the day before the date of en-
18 actment of the MAP-21, for nonroad
19 vehicles and nonroad engines (as de-
20 fined in section 216 of the Clean Air
21 Act (42 U.S.C. 7550)) that are used
22 in construction projects that are—

23 “(aa) located in nonattain-
24 ment or maintenance areas for
25 ozone, PM₁₀, or PM_{2.5} (as de-

1 fined under the Clean Air Act
2 (42 U.S.C. 7401 et seq.)); and

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

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

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

18 “(H) if the Secretary, after consultation
19 with the Administrator, determines that the
20 project or program is likely to contribute to the
21 attainment of a national ambient air quality
22 standard, whether through reductions in vehicle
23 miles traveled, fuel consumption, or through
24 other factors.

1 “(2) LIMITATIONS.—Funds apportioned to a
 2 State under section 104(b)(4) and not reserved
 3 under subsection (l) may not be obligated for a
 4 project that will result in the construction of new ca-
 5 pacity available to single-occupant vehicles unless
 6 the project consists of a high-occupancy vehicle facil-
 7 ity available to single-occupant vehicles only at other
 8 than peak travel times or such use by single-occu-
 9 pant vehicles at peak travel times is subject to a toll.

10 “(c) STATES FLEXIBILITY.—

11 “(1) STATES WITHOUT A NONATTAINMENT
 12 AREA.—If a State does not have, and never has had,
 13 a nonattainment area designated under the Clean
 14 Air Act (42 U.S.C. 7401 et seq.) for ozone, carbon
 15 monoxide, or PM_{2.5}, the State may use funds appor-
 16 tioned to the State under section 104(b)(4) (exclud-
 17 ing the amount of funds reserved under subsection
 18 (l)) for any project in the State that—

19 “(A) would otherwise be eligible under sub-
 20 section (b) as if the project were carried out in
 21 a nonattainment or maintenance area; or

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

24 “(2) STATES WITH A NONATTAINMENT AREA.—

“(A) IN GENERAL.—If a State has a non-attainment area or maintenance area and received 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 received based on the nonattainment and maintenance area population of the State under subparagraphs (B) and (C) of section 104(b)(2), as in effect on the day before the date of enactment of the MAP-21, the State may use for any project that is eligible under the transportation 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 paragraph (B).

“(B) RATIO.—For purposes of this paragraph, the ratio shall be calculated as—

1 “(i) the amount for fiscal year 2009
2 such State was permitted by section
3 149(c)(2), as in effect on the day before
4 the date of enactment of the MAP-21, to
5 obligate in any area of the State for
6 projects eligible under section 133, as in
7 effect on the day before the date of enact-
8 ment of the MAP-21; bears to

9 “(ii) the total apportionment to such
10 State for fiscal year 2009 under section
11 104(b)(2), as in effect on the day before
12 the date of enactment of the MAP-21.

13 “(3) CHANGES IN DESIGNATION.—If a new
14 nonattainment area is designated or a previously
15 designated nonattainment area is redesignated as an
16 attainment area in a State under the Clean Air Act
17 (42 U.S.C. 7401 et seq.), the Secretary shall modify
18 the amount such State is permitted to obligate in
19 any area of the State for projects eligible under sec-
20 tion 133.

21 “(d) APPLICABILITY OF PLANNING REQUIRE-
22 MENTS.—Programming and expenditure of funds for
23 projects under this section shall be consistent with the re-
24 quirements of sections 134 and 135.

1 “(e) PARTNERSHIPS WITH NONGOVERNMENTAL EN-
2 TITIES.—

3 “(1) IN GENERAL.—Notwithstanding any other
4 provision of this title and in accordance with this
5 subsection, a metropolitan planning organization,
6 State transportation department, or other project
7 sponsor may enter into an agreement with any pub-
8 lic, private, or nonprofit entity to cooperatively im-
9 plement any project carried out with funds appor-
10 tioned under section 104(b)(4).

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

14 “(A) ownership or operation of any land,
15 facility, vehicle, or other physical asset associ-
16 ated with the project;

17 “(B) cost sharing of any project expense;

18 “(C) carrying out of administration, con-
19 struction management, project management,
20 project operation, or any other management or
21 operational duty associated with the project;
22 and

23 “(D) any other form of participation ap-
24 proved by the Secretary.

1 “(3) ALLOCATION TO ENTITIES.—A State may
2 allocate funds apportioned under section 104(b)(4)
3 to an entity described in paragraph (1).

4 “(4) ALTERNATIVE FUEL PROJECTS.—In the
5 case of a project that will provide for the use of al-
6 ternative fuels by privately owned vehicles or vehicle
7 fleets, activities eligible for funding under this sub-
8 section—

9 “(A) may include the costs of vehicle re-
10 fueling infrastructure, including infrastructure
11 that would support the development, produc-
12 tion, and use of emerging technologies that re-
13 duce emissions of air pollutants from motor ve-
14 hicles, and other capital investments associated
15 with the project;

16 “(B) shall include only the incremental
17 cost of an alternative fueled vehicle, as com-
18 pared to a conventionally fueled vehicle, that
19 would otherwise be borne by a private party;
20 and

21 “(C) shall apply other governmental finan-
22 cial purchase contributions in the calculation of
23 net incremental cost.

24 “(5) PROHIBITION ON FEDERAL PARTICIPATION
25 WITH RESPECT TO REQUIRED ACTIVITIES.—A Fed-

1 eral participation payment under this subsection
2 may not be made to an entity to fund an obligation
3 imposed under the Clean Air Act (42 U.S.C. 7401
4 et seq.) or any other Federal law.

5 “(f) PRIORITY CONSIDERATION.—States and metro-
6 politan planning organizations shall give priority in areas
7 designated as nonattainment or maintenance for PM_{2.5}
8 under the Clean Air Act (42 U.S.C. 7401 et seq.) in dis-
9 tributing funds received for congestion mitigation and air
10 quality projects and programs from apportionments under
11 section 104(b)(4) not required to be reserved under sub-
12 section (l) to projects that are proven to reduce PM_{2.5},
13 including diesel retrofits.

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

20 “(h) EVALUATION AND ASSESSMENT OF
21 PROJECTS.—

22 “(1) DATABASE.—

23 “(A) IN GENERAL.—Using appropriate as-
24 sessments of projects funded under the conges-
25 tion mitigation and air quality program and re-

1 sults from other research, the Secretary shall
2 maintain and disseminate a cumulative data-
3 base describing the impacts of the projects, in-
4 cluding specific information about each project,
5 such as the project name, location, sponsor,
6 cost, and, to the extent already measured by the
7 project sponsor, cost-effectiveness, based on re-
8 ductions in congestion and emissions.

9 “(B) AVAILABILITY.—The database shall
10 be published or otherwise made readily available
11 by the Secretary in electronically accessible for-
12 mat and means, such as the Internet, for public
13 review.

14 “(2) COST EFFECTIVENESS.—

15 “(A) IN GENERAL.—The Secretary, in con-
16 sultation with the Administrator of the Envi-
17 ronmental Protection Agency, shall evaluate
18 projects on a periodic basis and develop a table
19 or other similar medium that illustrates the
20 cost-effectiveness of a range of project types eli-
21 gible for funding under this section as to how
22 the projects mitigate congestion and improve
23 air quality.

24 “(B) CONTENTS.—The table described in
25 subparagraph (A) shall show measures of cost-

1 effectiveness, such as dollars per ton of emis-
2 sions reduced, and assess those measures over
3 a variety of timeframes to capture impacts on
4 the planning timeframes outlined in section
5 134.

6 “(C) USE OF TABLE.—States and metro-
7 politan planning organizations shall consider
8 the information in the table when selecting
9 projects or developing performance plans under
10 subsection (k).

11 “(i) OPTIONAL PROGRAMMATIC ELIGIBILITY.—

12 “(1) IN GENERAL.—At the discretion of a met-
13 ropolitan planning organization, a technical assess-
14 ment of a selected program of projects may be con-
15 ducted through modeling or other means to dem-
16 onstrate the emissions reduction projection required
17 under this section.

18 “(2) APPLICABILITY.—If an assessment de-
19 scribed in paragraph (1) successfully demonstrates
20 an emissions reduction, all projects included in such
21 assessment shall be eligible for obligation under this
22 section without further demonstration of emissions
23 reduction of individual projects included in such as-
24 sessment.

1 “(j) SUBALLOCATION TO NONATTAINMENT AND
2 MAINTENANCE AREAS.—

3 “(1) IN GENERAL.—An amount equal to 50
4 percent of the amount of funds apportioned to each
5 State under section 104(b)(4) (excluding the amount
6 of funds reserved under subsection (l)) shall be sub-
7 allocated for projects within each area designated as
8 nonattainment or maintenance for the pollutants de-
9 scribed in subsection (b).

10 “(2) DISTRIBUTION OF FUNDS.—The distribu-
11 tion within any State of funds required to be sub-
12 allocated under paragraph (1) to each nonattain-
13 ment or maintenance area shall be in accordance
14 with a formula developed by each State and ap-
15 proved by the Secretary, which shall consider the
16 population of each such nonattainment or mainte-
17 nance area and shall be weighted by the severity of
18 pollution in the manner described in paragraph (6).

19 “(3) PROJECT SELECTION.—Projects under this
20 subsection shall be selected by a State and shall be
21 consistent with the requirements of sections 134 and
22 135.

23 “(4) PRIORITY FOR USE OF SUBALLOCATED
24 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-*

1 *ess or other requirement established under*
 2 *this section.*

3 “(5) FUNDS NOT SUBALLOCATED.—Except as
 4 provided in subsection (c), funds apportioned to a
 5 State under section 104(b)(4) (excluding the amount
 6 of funds reserved under subsection (l)) and not sub-
 7 allocated under paragraph (1) shall be made avail-
 8 able to such State for programming in any non-
 9 attainment or maintenance area in the State.

10 “(6) FACTORS FOR CALCULATION OF SUB-
 11 ALLOCATION.—

12 “(A) IN GENERAL.—For the purposes of
 13 paragraph (2), each State shall weight the pop-
 14 ulation of each such nonattainment or mainte-
 15 nance area by a factor of—

16 “(i) 1.0 if, at the time of the appor-
 17 tionment, the area is a maintenance area
 18 for ozone or carbon monoxide;

19 “(ii) 1.0 if, at the time of the appor-
 20 tionment, the area is classified as a mar-
 21 ginal ozone nonattainment area under sub-
 22 part 2 of part D of title I of the Clean Air
 23 Act (42 U.S.C. 7511 et seq.);

24 “(iii) 1.1 if, at the time of the appor-
 25 tionment, the area is classified as a mod-

1 erate ozone nonattainment area under sub-
2 part 2 of part D of title I of the Clean Air
3 Act (42 U.S.C. 7511 et seq.);

4 “(iv) 1.2 if, at the time of the appor-
5 tionment, the area is classified as a serious
6 ozone nonattainment area under subpart 2
7 of part D of title I of the Clean Air Act
8 (42 U.S.C. 7511 et seq.);

9 “(v) 1.3 if, at the time of the appor-
10 tionment, the area is classified as a severe
11 ozone nonattainment area under subpart 2
12 of part D of title I of the Clean Air Act
13 (42 U.S.C. 7511 et seq.);

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

19 “(vii) 1.0 if, at the time of the appor-
20 tionment, the area is not a nonattainment
21 or maintenance area for ozone as described
22 in section 149(b), but is designated under
23 section 107 of the Clean Air Act (42
24 U.S.C. 7407) as a nonattainment area for
25 carbon monoxide;

1 “(viii) 1.0 if, at the time of the appor-
2 tionment, the area is designated as non-
3 attainment for ozone under section 107 of
4 the Clean Air Act (42 U.S.C. 7407); or

5 “(ix) 1.2 if, at the time of the appor-
6 tionment, the area is not a nonattainment
7 or maintenance area as described in sec-
8 tion 149(b) for ozone, but is designated as
9 a nonattainment or maintenance area for
10 fine particulate matter, 2.5 micrometers or
11 less, under section 107 of the Clean Air
12 Act (42 U.S.C. 7407).

13 “(B) OTHER FACTORS.—If, in addition to
14 being designated as a nonattainment or mainte-
15 nance area for ozone as described in section
16 149(b), any county within the area was also
17 designated under section 107 of the Clean Air
18 Act (42 U.S.C. 7407) as a nonattainment or
19 maintenance area for carbon monoxide, or was
20 designated under section 107 of the Clean Air
21 Act (42 U.S.C. 7407) as a nonattainment or
22 maintenance area for particulate matter, 2.5
23 micrometers or less, or both, the weighted non-
24 attainment or maintenance area population of
25 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)

1 representing a nonattainment or maintenance area
2 shall develop a performance plan that—

3 “(A) includes an area baseline level for
4 traffic congestion and on-road mobile source
5 emissions for which the area is in nonattain-
6 ment or maintenance;

7 “(B) identifies air quality and traffic con-
8 gestion reduction target levels based on meas-
9 ures established by the Secretary; and

10 “(C) includes a description of projects
11 identified for funding under this section and a
12 description of how such projects will contribute
13 to achieving emission and traffic congestion re-
14 duction targets.

15 “(2) UPDATED PLANS.—

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

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

24 “(3) RULEMAKING.—Not later than 18 months
25 after the date of enactment of the MAP-21, the Sec-

1 retary shall promulgate regulations to implement
 2 this subsection that identify performance measures
 3 for traffic congestion and on-road mobile source
 4 emissions, timelines for performance plans, and re-
 5 quirements under this section for assessing the im-
 6 plementation of projects carried out under this sec-
 7 tion.

8 “(1) ADDITIONAL ACTIVITIES.—

9 “(1) RESERVATION OF FUNDS.—Of the funds
 10 apportioned to a State under section 104(b)(4), a
 11 State shall reserve the amount of funds attributable
 12 to the inclusion of the 10 percent of surface trans-
 13 portation program funds apportioned to such State
 14 for fiscal year 2009 in the formula under section
 15 104(b)(4) for projects under this subsection.

16 “(2) ELIGIBLE PROJECTS.—A State may obli-
 17 gate the funds reserved under this subsection for
 18 any of the following projects or activities:

19 “(A) Transportation enhancements, as de-
 20 fined in section 101.

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

23 “(C) The safe routes to school program
 24 under section 1404 of the SAFETEA-LU (23
 25 U.S.C. 402 note; Public Law 109–59).

1 “(D) Planning, designing, or constructing
2 boulevards, main streets, and other roadways,
3 including—

4 “(i) redesign of an underused high-
5 way, particularly a highway that is no
6 longer a principal route after construction
7 of a bypass or Interstate System route,
8 into a boulevard or main street that in-
9 cludes multiple forms of transportation;

10 “(ii) new street construction that en-
11 hances multimodal connectivity and in-
12 cludes public transportation, pedestrian
13 walkways, or bicycle infrastructure;

14 “(iii) redesign of a street to enhance
15 connectivity and increase the efficiency of
16 network performance that includes public
17 transportation, pedestrian walkways, or bi-
18 cycle infrastructure;

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

23 “(v) construction of high-occupancy
24 vehicle lanes and congestion reduction ac-

1 activities that increase the efficiency of the
2 existing road network.

3 “(E) Providing transportation choices, in-
4 cluding—

5 “(i) on-road and off-road trail facili-
6 ties for pedestrians, bicyclists, and other
7 nonmotorized forms of transportation, in-
8 cluding sidewalks, bicycle infrastructure,
9 pedestrian and bicycle signals, traffic
10 calming techniques, lighting, and other
11 safety-related infrastructure, and transpor-
12 tation projects to achieve compliance with
13 the Americans with Disabilities Act of
14 1990 (42 U.S.C. 12101 et seq.);

15 “(ii) the planning, design, and con-
16 struction of infrastructure-related projects
17 and systems that will provide safe routes
18 for nondrivers, including children, older
19 adults, and individuals with disabilities, to
20 access daily needs;

21 “(iii) activities for safety and edu-
22 cation for pedestrians and bicyclists and to
23 encourage walking and bicycling, including
24 efforts to encourage walking and bicycling
25 to school and community centers;

1 ~~“(iv) conversion and use of abandoned~~
 2 ~~railroad corridors for trails for pedestrians,~~
 3 ~~bicyclists, or other nonmotorized transpor-~~
 4 ~~tation users; and~~

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

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

11 “(3) FLEXIBILITY OF EXCESS RESERVED
 12 FUNDING.—Beginning in the second fiscal year after
 13 the date of enactment of the MAP–21, if on August
 14 1 of that fiscal year the unobligated balance of avail-
 15 able funds apportioned to a State under section
 16 104(b)(4) and reserved by a State under this sub-
 17 section exceeds 150 percent of such reserved amount
 18 in such fiscal year, the State may thereafter obligate
 19 the amount of excess funds for any activity—

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

22 “(B) for which the Secretary has approved
 23 the obligation of funds for any State under this
 24 section.

1 “(4) *PROVISION OF ADEQUATE DATA, MODELING,*
 2 *AND SUPPORT.*—*In any case in which a State re-*
 3 *quests reasonable technical support or otherwise re-*
 4 *quests data (including planning models and other*
 5 *modeling), clarification, or guidance regarding the*
 6 *content of any final rule or applicable regulation ma-*
 7 *terial to State actions under this section, the Sec-*
 8 *retary and any other agency shall provide that sup-*
 9 *port, clarification, or guidance in a timely manner.*

10 “(4)(5) *TREATMENT OF PROJECTS.*—Notwith-
 11 standing any other provision of law, projects funded
 12 under this subsection shall be treated as projects on
 13 a Federal-aid system under this chapter.”.

14 **SEC. 1114. TERRITORIAL AND PUERTO RICO HIGHWAY PRO-**
 15 **GRAM.**

16 (a) *IN GENERAL.*—Section 165 of title 23, United
 17 States Code, is amended to read as follows:

18 **“§ 165. Territorial and Puerto Rico highway program**

19 “(a) *DIVISION OF FUNDS.*—Of funds made available
 20 in a fiscal year for the territorial and Puerto Rico highway
 21 program—

22 “(1) 75 percent shall be for the Puerto Rico
 23 highway program under subsection (b); and

24 “(2) 25 percent shall be for the territorial high-
 25 way program under subsection (c).

1 “(b) PUERTO RICO HIGHWAY PROGRAM.—

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

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

9 “(A) APPORTIONMENT.—

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

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

20 “(II) the proportion that—

21 “(aa) the amount of funds
22 apportioned to Puerto Rico for
23 each such program for fiscal year
24 1997; bears to

1 “(bb) the total amount of
2 funds apportioned to Puerto Rico
3 for all such programs for fiscal
4 year 1997.

5 “(ii) EXCEPTION.—Funds identified
6 under clause (i) as having been appor-
7 tioned for the national highway system, the
8 surface transportation program, and the
9 Interstate maintenance program shall be
10 deemed to have been apportioned 50 per-
11 cent for the national highway performance
12 program and 50 percent *for* the transpor-
13 tation mobility program for purposes of
14 imposing such penalties.

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

22 “(C) ELIGIBLE USES OF FUNDS.—Of
23 amounts allocated to Puerto Rico for the Puer-
24 to Rico Highway Program for a fiscal year—

1 “(i) at least 50 percent shall be avail-
 2 able only for purposes eligible under sec-
 3 tion 119;

4 “(ii) at least 25 percent shall be avail-
 5 able only for purposes eligible under sec-
 6 tion 148; and

7 “(iii) any remaining funds may be ob-
 8 ligated for activities eligible under chapter
 9 1.

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

14 “(c) TERRITORIAL HIGHWAY PROGRAM.—

15 “(1) TERRITORY DEFINED.—In this subsection,
 16 the term ‘territory’ means any of the following terri-
 17 tories of the United States:

18 “(A) American Samoa.

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

21 “(C) Guam.

22 “(D) The United States Virgin Islands.

23 “(2) PROGRAM.—

24 “(A) IN GENERAL.—Recognizing the mu-
 25 tual benefits that will accrue to the territories

1 and the United States from the improvement of
2 highways in the territories, the Secretary may
3 carry out a program to assist each government
4 of a territory in the construction and improve-
5 ment of a system of arterial and collector high-
6 ways, and necessary inter-island connectors,
7 that is—

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

11 “(ii) approved by the Secretary.

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

16 “(3) TECHNICAL ASSISTANCE.—

17 “(A) IN GENERAL.—To continue a long-
18 range highway development program, the Sec-
19 retary may provide technical assistance to the
20 governments of the territories to enable the ter-
21 ritories, on a continuing basis—

22 “(i) to engage in highway planning;

23 “(ii) to conduct environmental evalua-
24 tions;

1 “(iii) to administer right-of-way acqui-
2 sition and relocation assistance programs;
3 and

4 “(iv) to design, construct, operate,
5 and maintain a system of arterial and col-
6 lector highways, including necessary inter-
7 island connectors.

8 “(B) FORM AND TERMS OF ASSISTANCE.—
9 Technical assistance provided under subpara-
10 graph (A), and the terms for the sharing of in-
11 formation among territories receiving the tech-
12 nical assistance, shall be included in the agree-
13 ment required by paragraph (5).

14 “(4) NONAPPLICABILITY OF CERTAIN PROVI-
15 SIONS.—

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

24 “(B) APPLICABLE PROVISIONS.—The
25 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;

1 “(iii) provide for the maintenance of
 2 facilities constructed or operated under
 3 this subsection in a condition to adequately
 4 serve the needs of present and future traf-
 5 fic; and

6 “(iv) implement standards for traffic
 7 operations and uniform traffic control de-
 8 vices that are approved by the Secretary.

9 “(B) TECHNICAL ASSISTANCE.—The
 10 agreement required by subparagraph (A)
 11 shall—

12 “(i) specify the kind of technical as-
 13 sistance to be provided under the program;

14 “(ii) include appropriate provisions re-
 15 garding information sharing among the
 16 territories; and

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

20 “(C) REVIEW AND REVISION OF AGREE-
 21 MENT.—The agreement entered into under sub-
 22 paragraph (A) shall be reevaluated and, as nec-
 23 essary, revised, at least every 2 years.

24 “(D) EXISTING AGREEMENTS.—With re-
 25 spect to an agreement under this subsection or

1 an agreement entered into under section 215 of
2 this title as in effect on the day before the date
3 of enactment of this subsection—

4 “(i) the agreement shall continue in
5 force until replaced by an agreement en-
6 tered into in accordance with subparagraph
7 (A); and

8 “(ii) amounts made available under
9 this subsection under the existing agree-
10 ment shall be available for obligation or ex-
11 penditure so long as the agreement, or the
12 existing agreement entered into under sub-
13 paragraph (A), is in effect.

14 “(6) ELIGIBLE USES OF FUNDS.—

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

19 “(i) Eligible transportation mobility
20 program projects described in section
21 133(c).

22 “(ii) Cost-effective, preventive mainte-
23 nance consistent with section 116(d).

1 “(iii) Ferry boats, terminal facilities,
2 and approaches, in accordance with sub-
3 sections (b) and (c) of section 129.

4 “(iv) Engineering and economic sur-
5 veys and investigations for the planning,
6 and the financing, of future highway pro-
7 grams.

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

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

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

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

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

25 (b) CONFORMING AMENDMENTS.—

1 (1) CLERICAL AMENDMENT.—The analysis for
 2 chapter 1 of title 23, United States Code, is amend-
 3 ed by striking the item relating to section 165 and
 4 inserting the following:

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

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

8 **SEC. 1115. NATIONAL FREIGHT PROGRAM.**

9 (a) IN GENERAL.—Chapter 1 of title 23, United
 10 States Code, is amended by adding at the end the fol-
 11 lowing:

12 **“§ 167. National freight program**

13 “(a) NATIONAL FREIGHT PROGRAM.—It is the policy
 14 of the United States to improve the condition and per-
 15 formance of the national freight network to ensure that
 16 the national freight network provides the foundation for
 17 the United States to compete in the global economy and
 18 achieve each goal described in subsection (b).

19 “(b) GOALS.—The goals of the national freight pro-
 20 gram are—

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

23 “(A) strengthen the contribution of the na-
 24 tional freight network to the economic competi-
 25 tiveness of the United States;

1 “(B) reduce congestion; and

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

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

7 “(3) to improve the safety, security, and resil-
8 ience of freight transportation;

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

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

13 “(6) to incorporate concepts of performance, in-
14 novation, competition, and accountability into the
15 operation and maintenance of the national freight
16 network; and

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

19 “(c) ESTABLISHMENT OF PROGRAM.—

20 “(1) IN GENERAL.—The Secretary shall estab-
21 lish and implement a national freight program in ac-
22 cordance with this section to strategically direct
23 Federal resources toward improved system perform-
24 ance for efficient movement of freight on highways,
25 including national highway system freight inter-

1 modal connectors and aerotropolis transportation
2 systems.

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

5 “(A) the primary freight network, as des-
6 ignated by the Secretary under subsection (f)
7 (referred to in this section as the ‘primary
8 freight network’) as most critical to the move-
9 ment of freight;

10 “(B) the portions of the Interstate System
11 not designated as part of the primary freight
12 network; and

13 “(C) critical rural freight corridors estab-
14 lished under subsection (g).

15 “(d) USE OF APPORTIONED FUNDS.—

16 “(1) PROJECTS ON THE NATIONAL FREIGHT
17 NETWORK.—At a minimum, following designation of
18 the primary freight network under subsection (f), a
19 State shall obligate funds apportioned under section
20 104(b)(5) to improve the movement of freight on the
21 national freight network.

22 “(2) LOCATION OF PROJECTS.—A project car-
23 ried out using funds apportioned under paragraph
24 (1) shall be located—

1 “(A) on the primary freight network as de-
2 scribed under subsection (f);

3 “(B) on a portion of the Interstate System
4 not designated as primary freight network;

5 “(C) on roads off of the Interstate System
6 or primary freight network, if that use of funds
7 will provide—

8 “(i) a more significant improvement
9 to freight movement on the Interstate Sys-
10 tem or the primary freight network; ~~or~~

11 “(ii) critical freight access to the
12 Interstate System or the primary freight
13 network; *or*

14 “(iii) *mitigation of the congestion im-*
15 *pacts from freight movement;*

16 “(D) on a national highway system freight
17 intermodal connector;

18 “(E) on critical rural freight corridors, as
19 designated under subsection (g) (except that
20 not more than 20 percent of the total antici-
21 pated apportionment of a State under section
22 104(b)(5) during fiscal years 2012 and 2013
23 may be used for projects on critical rural
24 freight corridors); or

1 “(F) within the boundaries of public and
 2 private intermodal facilities, but shall only in-
 3 clude surface infrastructure necessary to facili-
 4 tate direct intermodal interchange, transfer,
 5 and access into and out of the facility.

6 “(3) PRIMARY FREIGHT NETWORK FUNDING.—
 7 Beginning for each fiscal year after the Secretary
 8 designates the primary freight network, a State shall
 9 obligate from funds apportioned under section
 10 104(b)(5) for the primary freight network the lesser
 11 of—

12 “(A) an amount equal to the product ob-
 13 tained by multiplying—

14 “(i) an amount equal to 110 percent
 15 of the apportionment of the State for the
 16 fiscal year under section 104(b)(5); and

17 “(ii) the proportion that—

18 “(I) the total designated primary
 19 freight network mileage of the State;
 20 bears to

21 “(II) the sum of the designated
 22 primary freight network mileage of
 23 the State and the total Interstate sys-
 24 tem mileage of the State that is not

1 designated as part of the primary
2 freight network; or

3 “(B) an amount equal to the total appor-
4 tionment of the State under section 104(b)(5).

5 “(e) ELIGIBILITY.—

6 “(1) ELIGIBLE PROJECTS.—To be eligible for
7 funding under this section, a project shall dem-
8 onstrate the improvement made by the project to the
9 efficient movement of freight on the national freight
10 network.

11 “(2) FREIGHT RAIL AND MARITIME
12 PROJECTS.—

13 “(A) IN GENERAL.—A State may obligate
14 an amount equal to not more than 10 percent
15 of the total apportionment to the State under
16 section 104(b)(5) over the period of fiscal years
17 2012 and 2013 for public or private freight rail
18 or maritime projects.

19 “(B) ELIGIBILITY.—For a State to be eli-
20 gible to obligate funds in the manner described
21 in subparagraph (A), the Secretary shall concur
22 with the State that—

23 “(i) the project for which the State
24 seeks to obligate funds under this para-
25 graph 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

1 to land), construction contingencies, acquisition
2 of equipment, and operational improvements di-
3 rectly relating to improving system perform-
4 ance, including but not limited to any segment
5 of the primary freight network that falls below
6 the minimum level established pursuant to sec-
7 tion 119(f).

8 “(C) Intelligent transportation systems
9 and other technology to improve the flow of
10 freight.

11 “(D) Efforts to reduce the environmental
12 impacts of freight movement on the national
13 freight network.

14 “(E) Environmental mitigation.

15 “(F) Railway-highway grade separation.

16 “(G) Geometric improvements to inter-
17 changes and ramps.

18 “(H) Truck-only lanes.

19 “(I) Climbing and runaway truck lanes.

20 “(J) Adding or widening of shoulders.

21 “(K) Truck parking facilities eligible for
22 funding under section 1401 of the MAP-21.

23 “(L) Real-time traffic, truck parking,
24 roadway condition, and multimodal transpor-
25 tation information systems.

1 “(M) Electronic screening and
2 credentialing systems *for vehicles*, including
3 weigh-in-motion truck inspection technologies.

4 “(N) Traffic signal optimization including
5 synchronized and adaptive signals.

6 “(O) Work zone management and informa-
7 tion systems.

8 “(P) Highway ramp metering.

9 “(Q) Electronic cargo and border security
10 technologies that improve truck freight move-
11 ment.

12 “(R) Intelligent transportation systems
13 that would increase truck freight efficiencies in-
14 side the boundaries of intermodal facilities.

15 “(S) Any other activities to improve the
16 flow of freight on the national freight network.

17 “(4) OTHER ELIGIBLE COSTS.—In addition to
18 eligible project costs, a State may use funds appor-
19 tioned under section 104(b)(5) for the necessary
20 costs of conducting analyses and data collection to
21 comply with subsection (i) or diesel retrofits or alter-
22 native fuel projects defined under section 149 for
23 class 8 vehicles.

24 “(5) ELIGIBLE PROJECT COSTS PRIOR TO DES-
25 IGNATION OF THE PRIMARY FREIGHT NETWORK.—

1 Prior to the date of designation of the primary
2 freight network, a State may obligate funds appor-
3 tioned to the State under section 104(b)(5) to im-
4 prove freight movement on the Interstate System
5 for—

6 “(A) construction, reconstruction, resur-
7 facing, restoration, and rehabilitation of seg-
8 ments of the Interstate System;

9 “(B) operational improvements for seg-
10 ments of the Interstate System;

11 “(C) construction of, and operational im-
12 provements for, a Federal-aid highway not on
13 the Interstate System, and construction of a
14 transit project eligible for assistance under
15 chapter 53 of title 49, United States Code, if—

16 “(i) the highway or transit project is
17 in the same corridor as, and in proximity
18 to a highway designated as a part of, the
19 Interstate System;

20 “(ii) the construction or improvements
21 would improve the level of service on the
22 Interstate System described in subpara-
23 graph (A) and improve freight traffic flow;
24 and

1 “(iii) the construction or improve-
2 ments are more cost-effective for freight
3 movement than an improvement to the
4 Interstate System described in subpara-
5 graph (A);

6 “(D) highway safety improvements for seg-
7 ments of the Interstate System;

8 “(E) transportation planning in accordance
9 with sections 134 and 135;

10 “(F) the costs of conducting analysis and
11 data collection to comply with this section;

12 “(G) truck parking facilities eligible for
13 funding under section 1401 of the MAP-21;

14 “(H) infrastructure-based intelligent trans-
15 portation systems capital improvements;

16 “(I) environmental restoration and pollu-
17 tion abatement in accordance with section 328;
18 and

19 “(J) in accordance with all applicable Fed-
20 eral law (including regulations), participation in
21 natural habitat and wetlands mitigation efforts
22 relating to projects funded under this title,
23 which may include participation in natural habi-
24 tat and wetlands mitigation banks, contribu-
25 tions to statewide and regional efforts to con-

1 serve, restore, enhance, and create natural habi-
2 tats and wetlands, and development of state-
3 wide and regional natural habitat and wetlands
4 conservation and mitigation plans, including
5 any such banks, efforts, and plans developed in
6 accordance with applicable Federal law (includ-
7 ing regulations), on the conditions that—

8 “(i) contributions to those mitigation
9 efforts may—

10 “(I) take place concurrent with
11 or in advance of project construction;
12 and

13 “(II) occur in advance of project
14 construction only if the efforts are
15 consistent with all applicable require-
16 ments of Federal law (including regu-
17 lations) and State transportation
18 planning processes; and

19 “(ii) with respect to participation in a
20 natural habitat or wetland mitigation ef-
21 fort relating to a project funded under this
22 title that has an impact that occurs within
23 the service area of a mitigation bank, pref-
24 erence is given, to the maximum extent
25 practicable, to the use of the mitigation

1 bank if the bank contains sufficient avail-
 2 able credits to offset the impact and the
 3 bank is approved in accordance with appli-
 4 cable Federal law (including regulations).

5 “(f) DESIGNATION OF PRIMARY FREIGHT NET-
 6 WORK.—

7 “(1) INITIAL DESIGNATION OF PRIMARY
 8 FREIGHT NETWORK.—

9 “(A) DESIGNATION.—Not later than 1
 10 year after the date of enactment of this section,
 11 the Secretary shall designate a primary freight
 12 network—

13 “(i) based on an inventory of national
 14 freight volume conducted by the Adminis-
 15 trator of the Federal Highway Administra-
 16 tion, in consultation with stakeholders, in-
 17 cluding system users ~~and transport pro-~~
 18 ~~viders,~~ *transport providers, and States*; and

19 “(ii) that shall be comprised of not
 20 more than 27,000 centerline miles of exist-
 21 ing roadways that are most critical to the
 22 movement of freight.

23 “(B) FACTORS FOR DESIGNATION.—In
 24 designating the primary freight network, the
 25 Secretary shall consider—

1 “(i) the origins and destinations of
2 freight movement in the United States;

3 “(ii) the total freight tonnage moved
4 by all modes of transportation;

5 “(iii) the percentage of annual aver-
6 age daily truck traffic in the annual aver-
7 age daily traffic on principal arterials;

8 “(iv) the annual average daily truck
9 traffic on principal arterials;

10 “(v) land and maritime ports of entry;

11 “(vi) population centers; and

12 “(vii) network connectivity.

13 “(2) ADDITIONAL MILES ON PRIMARY FREIGHT
14 NETWORK.—In addition to the miles initially des-
15 ignated under paragraph (1), the Secretary may in-
16 crease the number of miles designated as part of the
17 primary freight network by not more than 3,000 ad-
18 ditional centerline miles of roadways (which may in-
19 clude existing or planned roads) critical to future ef-
20 ficient movement of goods on the primary freight
21 network.

22 “(3) REDESIGNATION OF PRIMARY FREIGHT
23 NETWORK.—During calendar year 2015 and every
24 10 years thereafter, using the designation factors de-
25 scribed in paragraph (1), the Secretary shall redesign-

1 nate the primary freight network (including addi-
 2 tional mileage described in subsection (f)(2)).

3 “(g) CRITICAL RURAL FREIGHT CORRIDORS.—A
 4 State may designate a road within the borders of the State
 5 as a critical rural freight corridor if the road—

6 “(1) is a rural principal arterial roadway and
 7 has a minimum of 25 percent of the annual average
 8 daily traffic of the road measured in passenger vehi-
 9 cle equivalent units from trucks (FHWA vehicle
 10 class 8 to 13); or

11 “(2) connects the primary freight ~~network~~ net-
 12 work, *a roadway described in paragraph (1)*, or
 13 Interstate System to facilities that handle more
 14 than—

15 “(A) 50,000 20-foot equivalent units per
 16 year; or

17 “(B) 500,000 tons per year of bulk com-
 18 modities.

19 “(h) NATIONAL FREIGHT STRATEGIC PLAN.—

20 “(1) INITIAL DEVELOPMENT OF NATIONAL
 21 FREIGHT STRATEGIC PLAN.—Not later than 3 years
 22 after the date of enactment of this section, the Sec-
 23 retary shall, in consultation with appropriate public
 24 and private transportation stakeholders, develop and
 25 post on the Department of Transportation public

1 website a national freight strategic plan that shall
2 include—

3 “(A) an assessment of the condition and
4 performance of the national freight network;

5 “(B) an identification of highway bottle-
6 necks on the national freight network that cre-
7 ate significant freight congestion problems;

8 “(C) forecasts of freight volumes for the
9 20-year period beginning in the year during
10 which the plan is issued;

11 “(D) an identification of major trade gate-
12 ways and national freight corridors that connect
13 major population centers, trade gateways, and
14 other major freight generators for current and
15 forecasted traffic and freight volumes, the iden-
16 tification of which shall be revised, as appro-
17 priate, in subsequent plans;

18 “(E) an assessment of statutory, regu-
19 latory, technological, institutional, financial,
20 and other barriers to improved freight transpor-
21 tation performance (including opportunities for
22 overcoming the barriers);

23 “(F) best practices for improving the per-
24 formance of the national freight network;

1 “(G) best practices to mitigate the impacts
2 of freight movement on communities;

3 “(H) a process for addressing multistate
4 projects and encouraging jurisdictions to col-
5 laborate; and

6 “(I) strategies to improve maritime, freight
7 rail, and freight intermodal connectivity.

8 “(2) UPDATES TO NATIONAL FREIGHT STRA-
9 TEGIC PLAN.—Not later than 5 years after the date
10 of completion of the first national freight strategic
11 plan under paragraph (1), and every 5 years there-
12 after, the Secretary shall update and repost on the
13 Department of Transportation public website a re-
14 vised national freight strategic plan.

15 “(i) FREIGHT PERFORMANCE TARGETS.—

16 “(1) RULEMAKING.—Not later than 2 years
17 after the date of enactment of this section, the Sec-
18 retary, in consultation with State departments of
19 transportation and other appropriate public and pri-
20 vate transportation stakeholders, shall publish a
21 rulemaking that establishes ~~quantifiable~~ quantifiable performance
22 measures for freight movement on the primary
23 freight network.

24 “(2) STATE TARGETS AND REPORTING.—Not
25 later than 1 year after the date on which the Sec-

1 retary publishes the rulemaking under paragraph
2 (1), each State shall—

3 “(A) develop and periodically update State
4 performance targets for freight movement on
5 the primary freight network—

6 “(i) in consultation with appropriate
7 public and private stakeholders; and

8 “(ii) using measures determined by
9 the Secretary; and

10 “(B) for every 2-year period, submit to the
11 Secretary a report that contains a description
12 of—

13 “(i) the progress of the State toward
14 meeting the targets; and

15 “(ii) the ways in which the State is
16 addressing congestion at freight bottle-
17 necks within the State.

18 “(3) COMPLIANCE.—

19 “(A) PERFORMANCE TARGETS.—To obli-
20 gate funding apportioned under section
21 104(b)(5), each State shall develop performance
22 targets in accordance with paragraph (2).

23 “(B) DETERMINATION OF SECRETARY.—If
24 the Secretary determines that a State has not
25 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 establishment 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 targets, the State shall submit to the Secretary, on a biennial basis, a freight performance improvement plan that includes—

“(i) an identification of significant freight system trends, needs, and issues within the State;

“(ii) a description of the freight policies and strategies that will guide the freight-related transportation investments of the State;

“(iii) an inventory of freight bottlenecks 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 performance targets of the State.

“(j) FREIGHT TRANSPORTATION CONDITIONS AND PERFORMANCE REPORTS.—Not later than 2 years after

1 the date of enactment of this section, and biennially there-
2 after, the Secretary shall prepare a report that contains
3 a description of the conditions and performance of the na-
4 tional freight network in the United States.

5 “(k) TRANSPORTATION INVESTMENT DATA AND
6 PLANNING TOOLS.—

7 “(1) IN GENERAL.—Not later than 1 year after
8 the date of enactment of this section, the Secretary
9 shall—

10 “(A) begin development of new tools and
11 improvement of existing tools or improve exist-
12 ing tools to support an outcome-oriented, per-
13 formance-based approach to evaluate proposed
14 freight-related and other transportation
15 projects, including—

16 “(i) methodologies for systematic
17 analysis of benefits and costs;

18 “(ii) tools for ensuring that the eval-
19 uation of freight-related and other trans-
20 portation projects could consider safety,
21 economic competitiveness, environmental
22 sustainability, and system condition in the
23 project selection process; and

24 “(iii) other elements to assist in effec-
25 tive transportation planning;

1 “(B) identify transportation-related model
2 data elements to support a broad range of eval-
3 uation methods and techniques to assist in
4 making transportation investment decisions;
5 and

6 “(C) at a minimum, in consultation with
7 other relevant Federal agencies, consider any
8 improvements to existing freight flow data col-
9 lection efforts that could reduce identified
10 freight data gaps and deficiencies and help im-
11 prove forecasts of freight transportation de-
12 mand.

13 “(2) CONSULTATION.—The Secretary shall con-
14 sult with Federal, State, and other stakeholders to
15 develop, improve, and implement the tools and col-
16 lect the data in paragraph (1).

17 “(1) DEFINITION OF AEROTROPOLIS TRANSPOR-
18 TATION SYSTEM.—For the purposes of this section, the
19 term ‘aerotropolis transportation system’ means a planned
20 and coordinated multimodal freight and passenger trans-
21 portation network that, as determined by the Secretary,
22 provides efficient, cost-effective, sustainable, and inter-
23 modal connectivity to a defined region of economic signifi-
24 cance centered around a major airport.

1 “(m) TREATMENT OF PROJECTS.—Notwithstanding
 2 any other provision of law, projects funded under this sec-
 3 tion shall be treated as projects on a Federal-aid ~~system~~
 4 *highway* under this chapter.”.

5 (b) CONFORMING AMENDMENT.—The analysis for
 6 chapter 1 of title 23, United States Code, is amended by
 7 adding at the end the following:

“167. National freight program.”.

8 **SEC. 1116. FEDERAL LANDS AND TRIBAL TRANSPORTATION**
 9 **PROGRAMS.**

10 (a) IN GENERAL.—Chapter 2 of title 23, United
 11 States Code, is amended by striking sections 201 through
 12 204 and inserting the following:

13 **“§ 201. Federal lands and tribal transportation pro-**
 14 **grams**

15 “(a) PURPOSE.—Recognizing the need for all public
 16 Federal and tribal transportation facilities to be treated
 17 under uniform policies similar to the policies that apply
 18 to Federal-aid highways and other public transportation
 19 facilities, the Secretary of Transportation, in collaboration
 20 with the Secretaries of the appropriate Federal land man-
 21 agement agencies, shall coordinate a uniform policy for all
 22 public Federal and tribal transportation facilities that
 23 shall apply to Federal lands transportation facilities, tribal
 24 transportation facilities, and Federal lands access trans-
 25 portation facilities.

1 “(b) AVAILABILITY OF FUNDS.—

2 “(1) AVAILABILITY.—Funds authorized for the
3 tribal transportation program, the Federal lands
4 transportation program, and the Federal lands ac-
5 cess program shall be available for contract upon ap-
6 portionment, or on October 1 of the fiscal year for
7 which the funds were authorized if no apportionment
8 is required.

9 “(2) AMOUNT REMAINING.—Any amount re-
10 maining unexpended for a period of 3 years after the
11 close of the fiscal year for which the funds were au-
12 thorized shall lapse.

13 “(3) OBLIGATIONS.—The Secretary of the de-
14 partment responsible for the administration of funds
15 under this subsection may incur obligations, approve
16 projects, and enter into contracts under such author-
17 izations, which shall be considered to be contractual
18 obligations of the United States for the payment of
19 the cost thereof, the funds of which shall be consid-
20 ered to have been expended when obligated.

21 “(4) EXPENDITURE.—

22 “(A) IN GENERAL.—Any funds authorized
23 for any fiscal year after the date of enactment
24 of this section under the Federal lands trans-
25 portation program, the Federal lands access

1 program, and the tribal transportation program
2 shall be considered to have been expended if a
3 sum equal to the total of the sums authorized
4 for the fiscal year and previous fiscal years have
5 been obligated.

6 “(B) CREDITED FUNDS.—Any funds de-
7 scribed in subparagraph (A) that are released
8 by payment of final voucher or modification of
9 project authorizations shall be—

10 “(i) credited to the balance of unobli-
11 gated authorizations; and

12 “(ii) immediately available for expend-
13 iture.

14 “(5) APPLICABILITY.—This section shall not
15 apply to funds authorized before the date of enact-
16 ment of this paragraph.

17 “(6) CONTRACTUAL OBLIGATION.—

18 “(A) IN GENERAL.—Notwithstanding any
19 other provision of law (including regulations),
20 the authorization by the Secretary, or the Sec-
21 retary of the appropriate Federal land manage-
22 ment agency if the agency is the contracting of-
23 fice, of engineering and related work for the de-
24 velopment, design, and acquisition associated
25 with a construction project, whether performed

1 by contract or agreement authorized by law, or
 2 the approval by the Secretary of plans, speci-
 3 fications, and estimates for construction of a
 4 project, shall be considered to constitute a con-
 5 tractual obligation of the Federal Government
 6 to pay the total eligible cost of—

7 “(i) any project funded under this
 8 title; and

9 “(ii) any project funded pursuant to
 10 agreements authorized by this title or any
 11 other title.

12 “(B) EFFECT.—Nothing in this para-
 13 graph—

14 “(i) affects the application of the Fed-
 15 eral share associated with the project being
 16 undertaken under this section; or

17 “(ii) modifies the point of obligation
 18 associated with Federal salaries and ex-
 19 penses.

20 “(7) FEDERAL SHARE.—

21 “(A) TRIBAL AND FEDERAL LANDS TRANS-
 22 PORTATION PROGRAM.—The Federal share of
 23 the cost of a project carried out under the Fed-
 24 eral lands transportation program or the tribal
 25 transportation program shall be 100 percent.

1 “(B) FEDERAL LANDS ACCESS PRO-
2 GRAM.—The Federal share of the cost of a
3 project carried out under the Federal lands ac-
4 cess program shall be determined in accordance
5 with section 120.

6 “(c) TRANSPORTATION PLANNING.—

7 “(1) TRANSPORTATION PLANNING PROCE-
8 DURES.—In consultation with the Secretary of each
9 appropriate Federal land management agency, the
10 Secretary shall implement transportation planning
11 procedures for Federal lands and tribal transpor-
12 tation facilities that are consistent with the planning
13 processes required under sections 134 and 135.

14 “(2) APPROVAL OF TRANSPORTATION IMPROVE-
15 MENT PROGRAM.—The transportation improvement
16 program developed as a part of the transportation
17 planning process under this section shall be ap-
18 proved by the Secretary.

19 “(3) INCLUSION IN OTHER PLANS.—Each re-
20 gionally significant tribal transportation program,
21 Federal lands transportation program, and Federal
22 lands access program project shall be—

23 “(A) developed in cooperation with State
24 and metropolitan planning organizations; and

1 “(B) included in appropriate tribal trans-
2 portation program plans, Federal lands trans-
3 portation program plans, Federal lands access
4 program plans, State and metropolitan plans,
5 and transportation improvement programs.

6 “(4) INCLUSION IN STATE PROGRAMS.—The ap-
7 proved tribal transportation program, Federal lands
8 transportation program, and Federal lands access
9 program transportation improvement programs shall
10 be included in appropriate State and metropolitan
11 planning organization plans and programs without
12 further action on the transportation improvement
13 program.

14 “(5) ASSET MANAGEMENT.—The Secretary and
15 the Secretary of each appropriate Federal land man-
16 agement agency shall, to the extent appropriate, im-
17 plement safety, bridge, pavement, and congestion
18 management systems for facilities funded under the
19 tribal transportation program and the Federal lands
20 transportation program in support of asset manage-
21 ment.

22 “(6) DATA COLLECTION.—

23 “(A) DATA COLLECTION.—The Secretaries
24 of the appropriate Federal land management
25 agencies shall collect and report data necessary

1 to implement the Federal lands transportation
 2 program, the Federal lands access program,
 3 and the tribal transportation program, includ-
 4 ing—

5 “(i) inventory and condition informa-
 6 tion on Federal lands transportation facili-
 7 ties and tribal transportation facilities; and

8 “(ii) bridge inspection and inventory
 9 information on any Federal bridge open to
 10 the public.

11 “(B) STANDARDS.—The Secretary, in co-
 12 ordination with the Secretaries of the appro-
 13 priate Federal land management agencies, shall
 14 define the collection and reporting data stand-
 15 ards.

16 “(7) ADMINISTRATIVE EXPENSES.—To imple-
 17 ment the activities described in this subsection, in-
 18 cluding direct support of transportation planning ac-
 19 tivities among Federal land management agencies,
 20 the Secretary may use not more than 5 percent for
 21 each fiscal year of the funds authorized for pro-
 22 grams under sections 203 and 204.

23 “(d) REIMBURSABLE AGREEMENTS.—In carrying out
 24 work under reimbursable agreements with any State, local,
 25 or tribal government under this title, the Secretary—

1 “(1) may, without regard to any other provision
2 of law (including regulations), record obligations
3 against accounts receivable from the entity; and

4 “(2) shall credit amounts received from the en-
5 tity to the appropriate account, which shall occur
6 not later than 90 days after the date of the original
7 request by the Secretary for payment.

8 “(e) TRANSFERS.—

9 “(1) IN GENERAL.—To enable the efficient use
10 of funds made available for the Federal lands trans-
11 portation program and the Federal lands access pro-
12 gram, the funds may be transferred by the Secretary
13 within and between each program with the concur-
14 rence of, as appropriate—

15 “(A) the Secretary;

16 “(B) the affected Secretaries of the respec-
17 tive Federal land management agencies;

18 “(C) State departments of transportation;

19 and

20 “(D) local government agencies.

21 “(2) CREDIT.—The funds described in para-
22 graph (1) shall be credited back to the loaning entity
23 with funds that are currently available for obligation
24 at the time of the credit.

1 **“§ 202. Tribal transportation program**

2 “(a) USE OF FUNDS.—

3 “(1) IN GENERAL.—Funds made available
4 under the tribal transportation program shall be
5 used by the Secretary of Transportation and the
6 Secretary of the Interior to pay the costs of—

7 “(A)(i) transportation planning, research,
8 maintenance, engineering, rehabilitation, res-
9 toration, construction, and reconstruction of
10 tribal transportation facilities;

11 “(ii) adjacent vehicular parking areas;

12 “(iii) interpretive signage;

13 “(iv) acquisition of necessary scenic ease-
14 ments and scenic or historic sites;

15 “(v) provisions for pedestrians and bicy-
16 cles;

17 “(vi) environmental mitigation in or adja-
18 cent to tribal land—

19 “(I) to improve public safety and re-
20 duce vehicle-caused wildlife mortality while
21 maintaining habitat connectivity; and

22 “(II) to mitigate the damage to wild-
23 life, aquatic organism passage, habitat,
24 and ecosystem connectivity, including the
25 costs of constructing, maintaining, replac-

1 ing, or removing culverts and bridges, as
2 appropriate;

3 “(vii) construction and reconstruction of
4 roadside rest areas, including sanitary and
5 water facilities; and

6 “(viii) other appropriate public road facili-
7 ties as determined by the Secretary;

8 “(B) operation and maintenance of transit
9 programs and facilities that are located on, or
10 provide access to, tribal land, or are adminis-
11 tered by a tribal government; and

12 “(C) any transportation project eligible for
13 assistance under this title that is located within,
14 or that provides access to, tribal land, or is as-
15 sociated with a tribal government.

16 “(2) CONTRACT.—In connection with an activ-
17 ity described in paragraph (1), the Secretary and the
18 Secretary of the Interior may enter into a contract
19 or other appropriate agreement with respect to the
20 activity with—

21 “(A) a State (including a political subdivi-
22 sion of a State); or

23 “(B) an Indian tribe.

24 “(3) INDIAN LABOR.—Indian labor may be em-
25 ployed, in accordance with such rules and regula-

1 tions as may be promulgated by the Secretary of the
2 Interior, to carry out any construction or other ac-
3 tivity described in paragraph (1).

4 “(4) FEDERAL EMPLOYMENT.—No maximum
5 limitation on Federal employment shall be applicable
6 to the construction or improvement of tribal trans-
7 portation facilities.

8 “(5) FUNDS FOR CONSTRUCTION AND IMPROVE-
9 MENT.—All funds made available for the construc-
10 tion and improvement of tribal transportation facili-
11 ties shall be administered in conformity with regula-
12 tions and agreements jointly approved by the Sec-
13 retary and the Secretary of the Interior.

14 “(6) ADMINISTRATIVE EXPENSES.—

15 “(A) IN GENERAL.—Of the funds author-
16 ized to be appropriated for the tribal transpor-
17 tation program, not more than 6 percent may
18 be used by the Secretary or the Secretary of the
19 Interior for program management and oversight
20 and project-related administrative expenses.

21 “(B) RESERVATION OF FUNDS.—The Sec-
22 retary of the Interior may reserve amounts
23 from administrative funds of the Bureau of In-
24 dian Affairs that are associated with the tribal

1 transportation program to fund tribal technical
 2 assistance centers under section 504(b).

3 “(7) MAINTENANCE.—

4 “(A) USE OF FUNDS.—Notwithstanding
 5 any other provision of this title, of the amount
 6 of funds allocated to an Indian tribe from the
 7 tribal transportation program, for the purpose
 8 of maintenance (excluding road sealing, which
 9 shall not be subject to any limitation), the Sec-
 10 retary shall not use an amount more than the
 11 greater of—

12 “(i) an amount equal to 25 percent;

13 or

14 “(ii) \$500,000.

15 “(B) RESPONSIBILITY OF BUREAU OF IN-
 16 DIAN AFFAIRS AND SECRETARY OF THE INTE-
 17 RIOR.—

18 “(i) BUREAU OF INDIAN AFFAIRS.—

19 The Bureau of Indian Affairs shall retain
 20 primary responsibility, including annual
 21 funding request responsibility, for Bureau
 22 of Indian Affairs road maintenance pro-
 23 grams on Indian reservations.

24 “(ii) SECRETARY OF THE INTERIOR.—

25 The Secretary of the Interior shall ensure

1 that funding made available under this
 2 subsection for maintenance of tribal trans-
 3 portation facilities for each fiscal year is
 4 supplementary to, and not in lieu of, any
 5 obligation of funds by the Bureau of In-
 6 dian Affairs for road maintenance pro-
 7 grams on Indian reservations.

8 “(C) TRIBAL-STATE ROAD MAINTENANCE
 9 AGREEMENTS.—

10 “(i) IN GENERAL.—An Indian tribe
 11 and a State may enter into a road mainte-
 12 nance agreement under which an Indian
 13 tribe shall assume the responsibility of the
 14 State for—

15 “(I) tribal transportation facili-
 16 ties; and

17 “(II) roads providing access to
 18 tribal transportation facilities.

19 “(ii) REQUIREMENTS.—Agreements
 20 entered into under clause (i) shall—

21 “(I) be negotiated between the
 22 State and the Indian tribe; and

23 “(II) not require the approval of
 24 the Secretary.

25 “(8) COOPERATION.—

1 “(A) IN GENERAL.—The cooperation of
2 States, counties, or other local subdivisions may
3 be accepted in construction and improvement.

4 “(B) FUNDS RECEIVED.—Any funds re-
5 ceived from a State, county, or local subdivision
6 shall be credited to appropriations available for
7 the tribal transportation program.

8 “(9) COMPETITIVE BIDDING.—

9 “(A) CONSTRUCTION.—

10 “(i) IN GENERAL.—Subject to clause
11 (ii) and subparagraph (B), construction of
12 each project shall be performed by contract
13 awarded by competitive bidding.

14 “(ii) EXCEPTION.—Clause (i) shall
15 not apply if the Secretary or the Secretary
16 of the Interior affirmatively finds that,
17 under the circumstances relating to the
18 project, a different method is in the public
19 interest.

20 “(B) APPLICABILITY.—Notwithstanding
21 subparagraph (A), section 23 of the Act of
22 June 25, 1910 (25 U.S.C. 47) and section 7(b)
23 of the Indian Self-Determination and Education
24 Assistance Act (25 U.S.C. 450e(b)) shall apply
25 to all funds administered by the Secretary of

1 the Interior that are appropriated for the con-
2 struction and improvement of tribal transpor-
3 tation facilities.

4 “(b) FUNDS DISTRIBUTION.—

5 “(1) NATIONAL TRIBAL TRANSPORTATION FA-
6 CILITY INVENTORY.—

7 “(A) IN GENERAL.—The Secretary of the
8 Interior, in cooperation with the Secretary, shall
9 maintain a comprehensive national inventory of
10 tribal transportation facilities that are eligible
11 for assistance under the tribal transportation
12 program.

13 “(B) TRANSPORTATION FACILITIES IN-
14 CLUDED IN THE INVENTORY.—For purposes of
15 identifying the tribal transportation system and
16 determining the relative transportation needs
17 among Indian tribes, the Secretary shall in-
18 clude, at a minimum, transportation facilities
19 that are eligible for assistance under the tribal
20 transportation program that an Indian tribe
21 has requested, including facilities that—

22 “(i) were included in the Bureau of
23 Indian Affairs system inventory prior to
24 October 1, 2004;

1 “(ii) are owned by an Indian tribal
2 government;

3 “(iii) are owned by the Bureau of In-
4 dian Affairs;

5 “(iv) were constructed or recon-
6 structed with funds from the Highway Ac-
7 count of the Transportation Trust Fund
8 under the Indian reservation roads pro-
9 gram since 1983;

10 “(v) are public roads or bridges within
11 the exterior boundary of Indian reserva-
12 tions, Alaska Native villages, and other
13 recognized Indian communities (including
14 communities in former Indian reservations
15 in the State of Oklahoma) in which the
16 majority of residents are American Indians
17 or Alaska Natives; ~~or~~

18 “(vi) *are public roads within or pro-*
19 *viding access to an Indian reservation or*
20 *Indian trust land or restricted Indian land*
21 *that is not subject to fee title alienation*
22 *without the approval of the Federal Govern-*
23 *ment, or Indian or Alaska Native villages,*
24 *groups, or communities in which Indians*
25 *and Alaska Natives reside, whom the Sec-*

retary 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.

1 “(E) BRIDGES.—All bridges in the inven-
 2 tory shall be recorded in the national bridge in-
 3 ventory administered by the Secretary under
 4 section 144.

5 “(2) REGULATIONS.—Notwithstanding sections
 6 563(a) and 565(a) of title 5, the Secretary of the In-
 7 terior shall maintain any regulations governing the
 8 tribal transportation program.

9 “(3) BASIS FOR FUNDING FORMULA.—

10 “(A) BASIS.—

11 “(i) IN GENERAL.—After making the
 12 set asides authorized under subsections
 13 (a)(6), (c), (d), and (e) on October 1 of
 14 each fiscal year, the Secretary shall dis-
 15 tribute the remainder authorized to be ap-
 16 propriated for the tribal transportation
 17 program under this section among Indian
 18 tribes as follows:

19 “(I) For fiscal year 2012—

20 ~~“(aa) 50 percent, equal to~~
 21 ~~the ratio that the amount allo-~~
 22 ~~cated to each tribe for fiscal year~~
 23 ~~2011 bears to the total amount~~
 24 ~~allocated to all tribes for that fis-~~
 25 ~~cal year; and~~

1 “(aa) 50 percent, equal to the
 2 ratio that the amount allocated to
 3 each tribe as a tribal share for fis-
 4 cal year 2011 bears to the total
 5 tribal share amount allocated to
 6 all tribes for that fiscal year; and

7 “(bb) the remainder using
 8 tribal shares as described in sub-
 9 paragraphs (B) and (C).

10 “(II) For fiscal year 2013 and
 11 thereafter, using tribal shares as de-
 12 scribed in subparagraphs (B) and (C).

13 “(ii) TRIBAL HIGH PRIORITY
 14 PROJECTS.—The High Priority Projects
 15 program as included in the Tribal Trans-
 16 portation Allocation Methodology of part
 17 170 of title 25, Code of Federal Regula-
 18 tions (as in effect on the date of enactment
 19 of the MAP–21), shall not continue in ef-
 20 fect.

21 “(B) TRIBAL SHARES.—Tribal shares
 22 under this program shall be determined using
 23 the national tribal transportation facility inven-
 24 tory as calculated for fiscal year 2012, and the
 25 most recent data on American Indian and Alas-

1 ka Native population within each Indian tribe's
2 American Indian/Alaska Native Reservation or
3 Statistical Area, as computed under the Native
4 American Housing Assistance and Self-Deter-
5 mination Act of 1996 (25 U.S.C. 4101 et seq.),
6 in the following manner:

7 “(i) 20 percent in the ratio that the
8 total eligible lane mileage in each tribe
9 bears to the total eligible lane mileage of
10 all American Indians and Alaskan Natives.

11 For the purposes of this calculation—

12 “(I) eligible lane mileage shall be
13 computed based on the inventory de-
14 scribed in paragraph (1), using only
15 facilities included in the inventory de-
16 scribed in clause (i), (ii), or (iii) of
17 paragraph (1)(B); and

18 “(II) paved roads and gravel sur-
19 faced roads are deemed to equal 2
20 lane miles per mile of inventory, and
21 earth surfaced roads and unimproved
22 roads shall be deemed to equal 1 lane
23 mile per mile of inventory.

24 “(ii) 40 percent in the ratio that the
25 total population in each tribe bears to the

1 total population of all American Indians
2 and Alaskan Natives.

3 “(iii) 40 percent shall be divided
4 equally among each Bureau of Indian Af-
5 fairs region for distribution of tribal shares
6 as follows:

7 “(I) $\frac{1}{4}$ of 1 percent shall be dis-
8 tributed equally among Indian tribes
9 with populations of 1 to 25.

10 “(II) $\frac{3}{4}$ of 1 percent shall be dis-
11 tributed equally among Indian tribes
12 with populations of 26 to 100.

13 “(III) $3\frac{3}{4}$ percent shall be dis-
14 tributed equally among Indian tribes
15 with populations of 101 to 1,000.

16 “(IV) 20 percent shall be distrib-
17 uted equally among Indian tribes with
18 populations of 1,001 to 10,000.

19 “(V) $74\frac{3}{4}$ percent shall be dis-
20 tributed equally among Indian tribes
21 with populations of 10,001 to 60,000
22 where 3 or more Indian tribes occupy
23 this category in a single Bureau of In-
24 dian Affairs region, and Bureau of In-
25 dian Affairs regions containing less

1 than 3 Indian tribes in this category
2 shall receive funding in accordance
3 with subclause (IV) and clause (iv).

4 “(VI) $\frac{1}{2}$ of 1 percent shall be
5 distributed equally among Indian
6 tribes with populations of 60,001 or
7 more.

8 “(iv) For a Bureau of Indian Affairs
9 region that has no Indian tribes meeting
10 the population criteria under 1 or more of
11 subclauses (I) through (VI) of clause (iii),
12 the region shall redistribute any funds sub-
13 ject to such clause or clauses among any
14 such clauses for which the region has In-
15 dian tribes meeting such criteria propor-
16 tionally in accordance with the percentages
17 listed in such clauses until such funds are
18 completely distributed.

19 “(C) TRIBAL SUPPLEMENTAL FUNDING.—

20 “(i) TRIBAL SUPPLEMENTAL FUNDING
21 AMOUNT.—Of funds made available for
22 each fiscal year for the tribal transpor-
23 tation program, the Secretary shall set
24 aside the following amount for a tribal
25 supplemental program:

1 “(I) If the amount made avail-
2 able for the tribal transportation pro-
3 gram is less than or equal to
4 \$275,000,000, 10 percent of such
5 amount.

6 “(II) If the amount made avail-
7 able for the tribal transportation pro-
8 gram exceeds \$275,000,000—

9 “(aa) \$27,500,000; plus

10 “(bb) 12.5 percent of the
11 amount made available for the
12 tribal transportation program in
13 excess of \$275,000,000.

14 “(ii) TRIBAL SUPPLEMENTAL ALLOCA-
15 TION.—The Secretary shall distribute trib-
16 al supplemental funds as follows:

17 “(I) DISTRIBUTION AMONG RE-
18 GIONS.—Of the amounts set aside
19 under clause (i), the Secretary shall
20 distribute to each region of the Bu-
21 reau of Indian Affairs a share of trib-
22 al supplemental funds in proportion to
23 the regional total of tribal shares
24 based on the cumulative tribal shares

1 of all Indian tribes within such region
2 under subparagraph (B).

3 “(II) DISTRIBUTION WITHIN A
4 REGION.—Of the amount that a re-
5 gion receives under subclause (I), the
6 Secretary shall distribute tribal sup-
7 plemental funding among Indian
8 tribes within such region as follows:

9 “(aa) TRIBAL SUPPLE-
10 MENTAL AMOUNTS.—The Sec-
11 retary shall determine—

12 “(AA) which such In-
13 dian tribes would be entitled
14 under subparagraph (A) to
15 receive in a fiscal year less
16 funding than they would re-
17 ceive in fiscal year 2011
18 pursuant to the Tribal
19 Transportation Allocation
20 Methodology described in
21 subpart C of part 170 of
22 title 25, Code of Federal
23 Regulations (as in effect on
24 the date of enactment of the
25 MAP-21); and

1 “(BB) the combined
2 amount that such Indian
3 tribes would be entitled to
4 receive in fiscal year 2011
5 pursuant to such Tribal
6 Transportation Allocation
7 Methodology in excess of the
8 amount that they would be
9 entitled to receive in the fis-
10 cal year under subparagraph
11 (B); and

12 “(bb) Subject to subclause
13 (III), distribute to each Indian
14 tribe that meets the criteria de-
15 scribed in item (aa)(AA) a share
16 of funding under this subpara-
17 graph in proportion to the share
18 of the combined amount deter-
19 mined under item (aa)(BB) at-
20 tributable to such Indian tribe.

21 “(III) CEILING.—An Indian tribe
22 may not receive under subclause (II)
23 and based on its tribal share under
24 subparagraph (A) a combined amount
25 that exceeds the amount that such In-

1 dian tribe would be entitled to receive
2 in fiscal year 2011 pursuant to the
3 Tribal Transportation Allocation
4 Methodology described in subpart C of
5 part 170 of title 25, Code of Federal
6 Regulations (as in effect on the date
7 of enactment of the MAP-21).

8 “(IV) OTHER AMOUNTS.—If the
9 amount made available for a region
10 under subclause (I) exceeds the
11 amount distributed among Indian
12 tribes within that region under sub-
13 clause (II), the Secretary shall dis-
14 tribute the remainder of such region’s
15 funding under such subclause among
16 all Indian tribes in that region in pro-
17 portion to the combined amount that
18 each such Indian tribe received under
19 subparagraph (A) and subclauses (I),
20 (II), and (III).

21 “(4) TRANSFERRED FUNDS.—

22 “(A) IN GENERAL.—Not later than 30
23 days after the date on which funds are made
24 available to the Secretary of the Interior under
25 this paragraph, the funds shall be distributed

1 to, and made available for immediate use by, el-
2 igible Indian tribes, in accordance with the for-
3 mula for distribution of funds under the tribal
4 transportation program.

5 “(B) USE OF FUNDS.—Notwithstanding
6 any other provision of this section, funds made
7 available to Indian tribes for tribal transpor-
8 tation facilities shall be expended on projects
9 identified in a transportation improvement pro-
10 gram approved by the Secretary.

11 “(5) HEALTH AND SAFETY ASSURANCES.—Not-
12 withstanding any other provision of law, an Indian
13 tribal government may approve plans, specifications,
14 and estimates and commence road and bridge con-
15 struction with funds made available from the tribal
16 transportation program through a contract or agree-
17 ment under Indian Self-Determination and Edu-
18 cation Assistance Act (25 U.S.C. 450 et seq.), if the
19 Indian tribal government—

20 “(A) provides assurances in the contract or
21 agreement that the construction will meet or ex-
22 ceed applicable health and safety standards;

23 “(B) obtains the advance review of the
24 plans and specifications from a State-licensed
25 civil engineer that has certified that the plans

1 and specifications meet or exceed the applicable
2 health and safety standards; and

3 “(C) provides a copy of the certification
4 under subparagraph (A) to the Deputy Assist-
5 ant Secretary for Tribal Government Affairs,
6 Department of Transportation, or the Assistant
7 Secretary for Indian Affairs, Department of the
8 Interior, as appropriate.

9 “(6) CONTRACTS AND AGREEMENTS WITH IN-
10 DIAN TRIBES.—

11 “(A) IN GENERAL.—Notwithstanding any
12 other provision of law or any interagency agree-
13 ment, program guideline, manual, or policy di-
14 rective, all funds made available through the
15 Secretary of the Interior under this chapter and
16 section 125(e) for tribal transportation facilities
17 to pay for the costs of programs, services, func-
18 tions, and activities, or portions of programs,
19 services, functions, or activities, that are specifi-
20 cally or functionally related to the cost of plan-
21 ning, research, engineering, and construction of
22 any tribal transportation facility shall be made
23 available, upon request of the Indian tribal gov-
24 ernment, to the Indian tribal government for
25 contracts and agreements for such planning, re-

1 search, engineering, and construction in accord-
2 ance with Indian Self-Determination and Edu-
3 cation Assistance Act (25 U.S.C. 450 et seq.).

4 “(B) EXCLUSION OF AGENCY PARTICIPA-
5 TION.—All funds, including contract support
6 costs, for programs, functions, services, or ac-
7 tivities, or portions of programs, services, func-
8 tions, or activities, including supportive admin-
9 istrative functions that are otherwise
10 contractible to which subparagraph (A) applies,
11 shall be paid in accordance with subparagraph
12 (A), without regard to the organizational level
13 at which the Department of the Interior has
14 previously carried out such programs, functions,
15 services, or activities.

16 “(7) CONTRACTS AND AGREEMENTS WITH IN-
17 DIAN TRIBES.—

18 “(A) IN GENERAL.—Notwithstanding any
19 other provision of law or any interagency agree-
20 ment, program guideline, manual, or policy di-
21 rective, all funds made available through the
22 Secretary of the Interior to an Indian tribal
23 government under this chapter for a tribal
24 transportation facility program or project shall
25 be made available, on the request of the Indian

1 tribal government, to the Indian tribal govern-
2 ment for use in carrying out, in accordance
3 with the Indian Self-Determination and Edu-
4 cation Assistance Act (25 U.S.C. 450 et seq.),
5 contracts and agreements for the planning, re-
6 search, design, engineering, construction, and
7 maintenance relating to the program or project.

8 “(B) EXCLUSION OF AGENCY PARTICIPA-
9 TION.—In accordance with subparagraph (A),
10 all funds, including contract support costs, for
11 a program or project to which subparagraph
12 (A) applies shall be paid to the Indian tribal
13 government without regard to the organiza-
14 tional level at which the Department of the In-
15 terior has previously carried out, or the Depart-
16 ment of Transportation has previously carried
17 out under the tribal transportation program,
18 the programs, functions, services, or activities
19 involved.

20 “(C) CONSORTIA.—Two or more Indian
21 tribes that are otherwise eligible to participate
22 in a program or project to which this chapter
23 applies may form a consortium to be considered
24 as a single Indian tribe for the purpose of par-
25 ticipating in the project under this section.

1 “(D) SECRETARY AS SIGNATORY.—Not-
2 withstanding any other provision of law, the
3 Secretary is authorized to enter into a funding
4 agreement with an Indian tribal government to
5 carry out a tribal transportation facility pro-
6 gram or project under subparagraph (A) that is
7 located on an Indian reservation or provides ac-
8 cess to the reservation or a community of the
9 Indian tribe.

10 “(E) FUNDING.—The amount an Indian
11 tribal government receives for a program or
12 project under subparagraph (A) shall equal the
13 sum of the funding that the Indian tribal gov-
14 ernment would otherwise receive for the pro-
15 gram or project in accordance with the funding
16 formula established under this subsection and
17 such additional amounts as the Secretary deter-
18 mines equal the amounts that would have been
19 withheld for the costs of the Bureau of Indian
20 Affairs for administration of the program or
21 project.

22 “(F) ELIGIBILITY.—

23 “(i) IN GENERAL.—Subject to clause
24 (ii) and the approval of the Secretary,
25 funds may be made available under sub-

1 paragraph (A) to an Indian tribal govern-
2 ment for a program or project in a fiscal
3 year only if the Indian tribal government
4 requesting such funds demonstrates to the
5 satisfaction of the Secretary financial sta-
6 bility and financial management capability
7 during the 3 fiscal years immediately pre-
8 ceding the fiscal year for which the request
9 is being made.

10 “(ii) CONSIDERATIONS.—An Indian
11 tribal government that had no uncorrected
12 significant and material audit exceptions in
13 the required annual audit of the contracts
14 or self-governance funding agreements
15 made by the Indian tribe with any Federal
16 agency under the Indian Self-Determina-
17 tion and Education Assistance Act (25
18 U.S.C. 450 et seq.) during the 3-fiscal year
19 period referred in clause (i) shall be con-
20 clusive evidence of the financial stability
21 and financial management capability of the
22 Indian tribe for purposes of clause (i).

23 “(G) ASSUMPTION OF FUNCTIONS AND DU-
24 TIES.—An Indian tribal government receiving
25 funding under subparagraph (A) for a program

1 or project shall assume all functions and duties
2 that the Secretary of the Interior would have
3 performed with respect to a program or project
4 under this chapter, other than those functions
5 and duties that inherently cannot be legally
6 transferred under the Indian Self-Determina-
7 tion and Education Assistance Act (25 U.S.C.
8 450 et seq.).

9 “(H) POWERS.—An Indian tribal govern-
10 ment receiving funding under subparagraph (A)
11 for a program or project shall have all powers
12 that the Secretary of the Interior would have
13 exercised in administering the funds transferred
14 to the Indian tribal government for such pro-
15 gram or project under this section if the funds
16 had not been transferred, except to the extent
17 that such powers are powers that inherently
18 cannot be legally transferred under the Indian
19 Self-Determination and Education Assistance
20 Act (25 U.S.C. 450 et seq.).

21 “(I) DISPUTE RESOLUTION.—In the event
22 of a disagreement between the Secretary or the
23 Secretary of the Interior and an Indian tribe
24 over whether a particular function, duty, or
25 power may be lawfully transferred to the Indian

1 tribe under the Indian Self-Determination and
2 Education Assistance Act (25 U.S.C. 450 et
3 seq.), the Indian tribe shall have the right to
4 pursue all alternative dispute resolution and ap-
5 peal procedures authorized by that Act, includ-
6 ing regulations issued to carry out the Act.

7 “(J) TERMINATION OF CONTRACT OR
8 AGREEMENT.—On the date of the termination
9 of a contract or agreement under this section
10 by an Indian tribal government, the Secretary
11 shall transfer all funds that would have been al-
12 located to the Indian tribal government under
13 the contract or agreement to the Secretary of
14 the Interior to provide continued transportation
15 services in accordance with applicable law.

16 “(c) PLANNING.—

17 “(1) IN GENERAL.—For each fiscal year, not
18 more than 2 percent of the funds made available for
19 the tribal transportation program shall be allocated
20 among Indian tribal governments that apply for
21 transportation planning pursuant to the Indian Self-
22 Determination and Education Assistance Act (25
23 U.S.C. 450 et seq.).

24 “(2) REQUIREMENT.—An Indian tribal govern-
25 ment, in cooperation with the Secretary of the Inte-

1 rior and, as appropriate, with a State, local govern-
 2 ment, or metropolitan planning organization, shall
 3 carry out a transportation planning process in ac-
 4 cordance with section 201(c).

5 “(3) SELECTION AND APPROVAL OF
 6 PROJECTS.—A project funded under this section
 7 shall be—

8 “(A) selected by the Indian tribal govern-
 9 ment from the transportation improvement pro-
 10 gram; and

11 “(B) subject to the approval of the Sec-
 12 retary of the Interior and the Secretary.

13 “(d) TRIBAL TRANSPORTATION FACILITY
 14 BRIDGES.—

15 “(1) NATIONWIDE PRIORITY PROGRAM.—The
 16 Secretary shall maintain a nationwide priority pro-
 17 gram for improving deficient bridges eligible for the
 18 tribal transportation program.

19 “(2) FUNDING.—Before making any distribu-
 20 tion under subsection (b), the Secretary shall set
 21 aside not more than 2 percent of the funds made
 22 available under the tribal transportation program for
 23 each fiscal year to be allocated—

24 “(A) to carry out any planning, design, en-
 25 gineering, preconstruction, construction, and in-

1 specification of a project to replace, rehabilitate,
 2 seismically retrofit, paint, apply calcium magne-
 3 sium acetate, sodium acetate/formate, or other
 4 environmentally acceptable, minimally corrosive
 5 anti-icing and deicing composition; or

6 “(B) to implement any countermeasure for
 7 deficient tribal transportation facility bridges,
 8 including multiple-pipe culverts.

9 “(3) ELIGIBLE BRIDGES.—To be eligible to re-
 10 ceive funding under this subsection, a bridge de-
 11 scribed in paragraph (1) shall—

12 “(A) have an opening of not less than 20
 13 feet;

14 “(B) be classified as a tribal transpor-
 15 tation facility; and

16 “(C) be structurally deficient or function-
 17 ally obsolete.

18 “(4) APPROVAL REQUIREMENT.—The Secretary
 19 may make funds available under this subsection for
 20 preliminary engineering, construction, and construc-
 21 tion engineering activities after approval of required
 22 documentation and verification of eligibility in ac-
 23 cordance with this title.

24 “(e) SAFETY.—

1 “(1) FUNDING.—Before making any distribu-
2 tion under subsection (b), the Secretary shall set
3 aside not more than 2 percent of the funds made
4 available under the tribal transportation program for
5 each fiscal year to be allocated based on an identi-
6 fication and analysis of highway safety issues and
7 opportunities on tribal land, as determined by the
8 Secretary, on application of the Indian tribal govern-
9 ments for eligible projects described in section
10 148(a)(4).

11 “(2) PROJECT SELECTION.—An Indian tribal
12 government, in cooperation with the Secretary of the
13 Interior and, as appropriate, with a State, local gov-
14 ernment, or metropolitan planning organization,
15 shall select projects from the transportation im-
16 provement program, subject to the approval of the
17 Secretary and the Secretary of the Interior.

18 “(f) FEDERAL-AID ELIGIBLE PROJECTS.—Before ap-
19 proving as a project on a tribal transportation facility any
20 project eligible for funds apportioned under section 104
21 in a State, the Secretary shall, for projects on tribal trans-
22 portation facilities, determine that the obligation of funds
23 for the project is supplementary to and not in lieu of the
24 obligation of a fair and equitable share of funds appor-
25 tioned to the State under section 104.

1 **“§ 203. Federal lands transportation program**

2 “(a) USE OF FUNDS.—

3 “(1) IN GENERAL.—Funds made available
4 under the Federal lands transportation program
5 shall be used by the Secretary of Transportation and
6 the Secretary of the appropriate Federal land man-
7 agement agency to pay the costs of—

8 “(A) program administration, transpor-
9 tation planning, research, preventive mainte-
10 nance, engineering, rehabilitation, restoration,
11 construction, and reconstruction of Federal
12 lands transportation facilities, and—

13 “(i) adjacent vehicular parking areas;

14 “(ii) acquisition of necessary scenic
15 easements and scenic or historic sites;

16 “(iii) provision for pedestrians and bi-
17 cycles;

18 “(iv) environmental mitigation in or
19 adjacent to Federal land open to the pub-
20 lic—

21 “(I) to improve public safety and
22 reduce vehicle-caused wildlife mor-
23 tality while maintaining habitat
24 connectivity; and

25 “(II) to mitigate the damage to
26 wildlife, aquatic organism passage,

1 habitat, and ecosystem connectivity,
2 including the costs of constructing,
3 maintaining, replacing, or removing
4 culverts and bridges, as appropriate;

5 “(v) construction and reconstruction
6 of roadside rest areas, including sanitary
7 and water facilities;

8 “(vi) congestion mitigation; and

9 “(vii) other appropriate public road
10 facilities, as determined by the Secretary;

11 “(B) operation and maintenance of transit
12 facilities; and

13 “(C) any transportation project eligible for
14 assistance under this title that is on a public
15 road within or adjacent to, or that provides ac-
16 cess to, Federal lands open to the public.

17 “(2) CONTRACT.—In connection with an activ-
18 ity described in paragraph (1), the Secretary and the
19 Secretary of the appropriate Federal land manage-
20 ment agency may enter into a contract or other ap-
21 propriate agreement with respect to the activity
22 with—

23 “(A) a State (including a political subdivi-
24 sion of a State); or

25 “(B) an Indian tribe.

1 “(3) ADMINISTRATION.—All appropriations for
2 the construction and improvement of Federal lands
3 transportation facilities shall be administered in con-
4 formity with regulations and agreements jointly ap-
5 proved by the Secretary and the Secretary of the ap-
6 propriate Federal land managing agency.

7 “(4) COOPERATION.—

8 “(A) IN GENERAL.—The cooperation of
9 States, counties, or other local subdivisions may
10 be accepted in construction and improvement.

11 “(B) FUNDS RECEIVED.—Any funds re-
12 ceived from a State, county, or local subdivision
13 shall be credited to appropriations available for
14 the class of Federal lands transportation facili-
15 ties to which the funds were contributed.

16 “(5) COMPETITIVE BIDDING.—

17 “(A) IN GENERAL.—Subject to subpara-
18 graph (B), construction of each project shall be
19 performed by contract awarded by competitive
20 bidding.

21 “(B) EXCEPTION.—Subparagraph (A)
22 shall not apply if the Secretary or the Secretary
23 of the appropriate Federal land management
24 agency affirmatively finds that, under the cir-

1 cumstances relating to the project, a different
2 method is in the public interest.

3 “(b) AGENCY PROGRAM DISTRIBUTIONS.—

4 “(1) IN GENERAL.—On October 1, 2011, and
5 on October 1 of each fiscal year thereafter, the Sec-
6 retary shall allocate the sums authorized to be ap-
7 propriated for the fiscal year for the Federal lands
8 transportation program on the basis of applications
9 of need, as determined by the Secretary—

10 “(A) in consultation with the Secretaries of
11 the applicable Federal land management agen-
12 cies; and

13 “(B) in coordination with the transpor-
14 tation plans required under section 201 of the
15 respective transportation systems of—

16 “(i) the National Park Service;

17 “(ii) the Forest Service;

18 “(iii) the United States Fish and
19 Wildlife Service;

20 “(iv) the Corps of Engineers; and

21 “(v) the Bureau of Land Manage-
22 ment.

23 “(2) APPLICATIONS.—

24 “(A) REQUIREMENTS.—Each application
25 submitted by a Federal land management agen-

1 cy shall include proposed programs at various
 2 potential funding levels, as defined by the Sec-
 3 retary following collaborative discussions with
 4 applicable Federal land management agencies.

5 “(B) CONSIDERATION BY SECRETARY.—In
 6 evaluating an application submitted under sub-
 7 paragraph (A), the Secretary shall consider the
 8 extent to which the programs support—

9 “(i) the transportation goals of—

10 “(I) a state of good repair of
 11 transportation facilities;

12 “(II) a reduction of bridge defi-
 13 ciencies, and

14 “(III) an improvement of safety;

15 “(ii) high-use Federal recreational
 16 sites or Federal economic generators; and

17 “(iii) the resource and asset manage-
 18 ment goals of the Secretary of the respec-
 19 tive Federal land management agency.

20 “(C) PERMISSIVE CONTENTS.—Applica-
 21 tions may include proposed programs the dura-
 22 tion of which extend over a multiple-year period
 23 to support long-term transportation planning
 24 and resource management initiatives.

1 “(c) NATIONAL FEDERAL LANDS TRANSPORTATION
2 FACILITY INVENTORY.—

3 “(1) IN GENERAL.—The Secretaries of the ap-
4 propriate Federal land management agencies, in co-
5 operation with the Secretary, shall maintain a com-
6 prehensive national inventory of public Federal lands
7 transportation facilities.

8 “(2) TRANSPORTATION FACILITIES INCLUDED
9 IN THE INVENTORIES.—To identify the Federal
10 lands transportation system and determine the rel-
11 ative transportation needs among Federal land man-
12 agement agencies, the inventories shall include, at a
13 minimum, facilities that—

14 “(A) provide access to high-use Federal
15 recreation sites or Federal economic generators,
16 as determined by the Secretary in coordination
17 with the respective Secretaries of the appro-
18 priate Federal land management agencies; and

19 “(B) are owned by 1 of the following agen-
20 cies:

21 “(i) The National Park Service.

22 “(ii) The Forest Service.

23 “(iii) The United States Fish and
24 Wildlife Service.

1 “(iv) The Bureau of Land Manage-
2 ment.

3 “(v) The Corps of Engineers.

4 “(3) AVAILABILITY.—The inventories shall be
5 made available to the Secretary.

6 “(4) UPDATES.—The Secretaries of the appro-
7 priate Federal land management agencies shall up-
8 date the inventories of the appropriate Federal land
9 management agencies, as determined by the Sec-
10 retary after collaborative discussions with the Secre-
11 taries of the appropriate Federal land management
12 agencies.

13 “(5) REVIEW.—A decision to add or remove a
14 facility from the inventory shall not be considered a
15 Federal action for purposes of review under the Na-
16 tional Environmental Policy Act of 1969 (42 U.S.C.
17 4321 et seq.).

18 “(d) BICYCLE SAFETY.—The Secretary of the appro-
19 priate Federal land management agency shall prohibit the
20 use of bicycles on each federally owned road that has a
21 speed limit of 30 miles per hour or greater and an adja-
22 cent paved path for use by bicycles within 100 yards of
23 the road.

24 **“§ 204. Federal lands access program**

25 “(a) USE OF FUNDS.—

1 “(1) IN GENERAL.—Funds made available
2 under the Federal lands access program shall be
3 used by the Secretary of Transportation and the
4 Secretary of the appropriate Federal land manage-
5 ment agency to pay the cost of—

6 “(A) transportation planning, research, en-
7 gineering, preventive maintenance, rehabilita-
8 tion, restoration, construction, and reconstruc-
9 tion of Federal lands access transportation fa-
10 cilities located on or adjacent to, or that provide
11 access to, Federal land, and—

12 “(i) adjacent vehicular parking areas;

13 “(ii) acquisition of necessary scenic
14 easements and scenic or historic sites;

15 “(iii) provisions for pedestrians and
16 bicycles;

17 “(iv) environmental mitigation in or
18 adjacent to Federal land—

19 “(I) to improve public safety and
20 reduce vehicle-caused wildlife mor-
21 tality while maintaining habitat
22 connectivity; and

23 “(II) to mitigate the damage to
24 wildlife, aquatic organism passage,
25 habitat, and ecosystem connectivity,

1 including the costs of constructing,
 2 maintaining, replacing, or removing
 3 culverts and bridges, as appropriate;

4 “(v) construction and reconstruction
 5 of roadside rest areas, including sanitary
 6 and water facilities; and

7 “(vi) other appropriate public road fa-
 8 cilities, as determined by the Secretary;

9 “(B) operation and maintenance of transit
 10 facilities; and

11 “(C) any transportation project eligible for
 12 assistance under this title that is within or ad-
 13 jacent to, or that provides access to, Federal
 14 land.

15 “(2) CONTRACT.—In connection with an activ-
 16 ity described in paragraph (1), the Secretary and the
 17 Secretary of the appropriate Federal land manage-
 18 ment agency may enter into a contract or other ap-
 19 propriate agreement with respect to the activity
 20 with—

21 “(A) a State (including a political subdivi-
 22 sion of a State); or

23 “(B) an Indian tribe.

24 “(3) ADMINISTRATION.—All appropriations for
 25 the construction and improvement of Federal lands

1 access transportation facilities shall be administered
2 in conformity with regulations and agreements ap-
3 proved by the Secretary.

4 “(4) COOPERATION.—

5 “(A) IN GENERAL.—The cooperation of
6 States, counties, or other local subdivisions may
7 be accepted in construction and improvement.

8 “(B) FUNDS RECEIVED.—Any funds re-
9 ceived from a State, county, or local subdivision
10 for a Federal lands access transportation facil-
11 ity project shall be credited to appropriations
12 available under the Federal lands access pro-
13 gram.

14 “(5) COMPETITIVE BIDDING.—

15 “(A) IN GENERAL.—Subject to subpara-
16 graph (B), construction of each project shall be
17 performed by contract awarded by competitive
18 bidding.

19 “(B) EXCEPTION.—Subparagraph (A)
20 shall not apply if the Secretary or the Secretary
21 of the appropriate Federal land management
22 agency affirmatively finds that, under the cir-
23 cumstances relating to the project, a different
24 method is in the public interest.

25 “(b) PROGRAM DISTRIBUTIONS.—

1 “(1) IN GENERAL.—Funding made available to
2 carry out the Federal lands access program shall be
3 allocated among those States that have Federal
4 land, in accordance with the following formula:

5 “(A) 80 percent of the available funding
6 for use in those States that contain at least 1
7 ½ percent of the total public land in the United
8 States managed by the agencies described in
9 paragraph (2), to be distributed as follows:

10 “(i) 30 percent in the ratio that—

11 “(I) recreational visitation within
12 each such State; bears to

13 “(II) the recreational visitation
14 within all such States.

15 “(ii) 5 percent in the ratio that—

16 “(I) the Federal land area within
17 each such State; bears to

18 “(II) the Federal land area in all
19 such States.

20 “(iii) 55 percent in the ratio that—

21 “(I) the Federal public road
22 miles within each such State; bears to

23 “(II) the Federal public road
24 miles in all such States.

25 “(iv) 10 percent in the ratio that—

1 “(I) the number of Federal pub-
2 lic bridges within each such State;
3 bears to

4 “(II) the number of Federal pub-
5 lic bridges in all such States.

6 “(B) 20 percent of the available funding
7 for use in those States that do not contain at
8 least 1 ½ percent of the total public land in the
9 United States managed by the agencies de-
10 scribed in paragraph (2), to be distributed as
11 follows:

12 “(i) 30 percent in the ratio that—

13 “(I) recreational visitation within
14 each such State; bears to

15 “(II) the recreational visitation
16 within all such States.

17 “(ii) 5 percent in the ratio that—

18 “(I) the Federal land area within
19 each such State; bears to

20 “(II) the Federal land area in all
21 such States.

22 “(iii) 55 percent in the ratio that—

23 “(I) the Federal public road
24 miles within each such State; bears to

1 “(II) the Federal public road
2 miles in all such States.

3 “(iv) 10 percent in the ratio that—

4 “(I) the number of Federal pub-
5 lic bridges within each such State;
6 bears to

7 “(II) the number of Federal pub-
8 lic bridges in all such States.

9 “(2) DATA SOURCE.—Data necessary to dis-
10 tribute funding under paragraph (1) shall be pro-
11 vided by the following Federal land management
12 agencies:

13 “(A) The National Park Service.

14 “(B) The Forest Service.

15 “(C) The United States Fish and Wildlife
16 Service.

17 “(D) The Bureau of Land Management.

18 “(E) The Corps of Engineers.

19 “(c) PROGRAMMING DECISIONS COMMITTEE.—

20 “(1) IN GENERAL.—Programming decisions
21 shall be made within each State by a committee
22 comprised of—

23 “(A) a representative of the Federal High-
24 way Administration;

1 “(B) a representative of the State Depart-
2 ment of Transportation; and

3 “(C) a representative of any appropriate
4 political subdivision of the State.

5 “(2) CONSULTATION REQUIREMENT.—The com-
6 mittee described in paragraph (1) shall consult with
7 each applicable Federal agency in each State before
8 any joint discussion or final programming decision.

9 “(3) PROJECT PREFERENCE.—In making a
10 programming decision under paragraph (1), the
11 committee shall give preference to projects that pro-
12 vide access to, are adjacent to, or are located within
13 high-use Federal recreation sites or Federal eco-
14 nomic generators, as identified by the Secretaries of
15 the appropriate Federal land management agen-
16 cies.”.

17 (b) PUBLIC LANDS DEVELOPMENT ROADS AND
18 TRAILS.—Section 214 of title 23, United States Code, is
19 repealed.

20 (c) CONFORMING AMENDMENTS.—

21 (1) CHAPTER 2 ANALYSIS.—The analysis for
22 chapter 2 of title 23, United States Code, is amend-
23 ed:

1 (A) By striking the items relating to sec-
 2 tions 201 through 204 and inserting the fol-
 3 lowing:

“201. Federal lands and tribal transportation programs.

“202. Tribal transportation program.

“203. Federal lands transportation program.

“204. Federal lands access program.”.

4 (B) By striking the item relating to section
 5 214.

6 (2) DEFINITION.—Section 138(a) of title 23,
 7 United States Code, is amended in the third sen-
 8 tence by striking “park road or parkway under sec-
 9 tion 204 of this title” and inserting “Federal lands
 10 transportation facility”.

11 (3) RULES, REGULATIONS, AND RECOMMENDA-
 12 TIONS.—Section 315 of title 23, United States Code,
 13 is amended by striking “204(f)” and inserting
 14 “202(a)(5), 203(a)(3),”.

15 **SEC. 1117. ALASKA HIGHWAY.**

16 Section 218 of title 23, United States Code, is
 17 amended to read as follows:

18 **“§ 218. Alaska Highway**

19 “(a) DEFINITION OF ALASKA MARINE HIGHWAY
 20 SYSTEM.—In this section, the term ‘Alaska Marine High-
 21 way System’ includes each existing or planned transpor-
 22 tation facility and equipment in the State of Alaska relat-
 23 ing to the ferry system of the State, including the lease,

1 purchase, or construction of vessels, terminals, docks,
2 floats, ramps, staging areas, parking lots, bridges, and ap-
3 proaches thereto, and necessary roads.

4 “(b) AUTHORIZATION OF SECRETARY.—

5 “(1) IN GENERAL.—Recognizing the benefits
6 that will accrue to the State of Alaska and to the
7 United States from the reconstruction of the Alaska
8 Highway from the Alaskan border to Haines Junc-
9 tion in Canada and the Haines Cutoff Highway from
10 Haines Junction in Canada to Haines, the Secretary
11 is authorized, upon agreement with the State of
12 Alaska, to expend on such highway or the Alaska
13 Marine Highway System any Federal-aid highway
14 funds apportioned to the State of Alaska under this
15 title to provide for necessary reconstruction of such
16 highway.

17 “(2) LIMITATION.—No expenditures shall be
18 made for the construction of the portion of the high-
19 ways that are in located in Canada until the date on
20 which an agreement has been reached by the Gov-
21 ernment of Canada and the Government of the
22 United States, which shall provide in part, that the
23 Canadian Government—

24 “(A) will provide, without participation of
25 funds authorized under this title, all necessary

1 right-of-way for the construction of the high-
2 ways;

3 “(B) will not impose any highway toll, or
4 permit any toll to be charged for the use of the
5 highways by vehicles or persons;

6 “(C) will not levy or assess, directly or in-
7 directly, any fee, tax, or other charge for the
8 use of the highways by vehicles or persons from
9 the United States that does not apply equally to
10 vehicles or persons of Canada;

11 “(D) will continue to grant reciprocal rec-
12 ognition of vehicle registration and drivers’ li-
13 censes in accordance with agreements between
14 the United States and Canada; and

15 “(E) will maintain the highways after the
16 date of completion of the highways in proper
17 condition adequately to serve the needs of
18 present and future traffic.

19 “(c) SUPERVISION OF SECRETARY.—The survey and
20 construction work undertaken in Canada pursuant to this
21 section shall be under the general supervision of the Sec-
22 retary.”.

1 **SEC. 1118. PROJECTS OF NATIONAL AND REGIONAL SIG-**
2 **NIFICANCE.**

3 (a) ESTABLISHMENT OF PROGRAM.—The Secretary
4 shall establish a program in accordance with this section
5 to provide grants for projects of national and regional sig-
6 nificance.

7 (b) PURPOSE OF PROGRAM.—The purpose of the
8 projects of national and regional significance program
9 shall be to fund critical high-cost surface transportation
10 infrastructure projects that are difficult to complete with
11 existing Federal, State, local, and private funds and that
12 will—

13 (1) generate national and regional economic
14 benefits and increase global economic competitive-
15 ness;

16 (2) reduce congestion and its impacts;

17 (3) improve roadways vital to national energy
18 security;

19 (4) improve movement of freight and people;
20 and

21 (5) improve transportation safety.

22 (c) DEFINITIONS.—In this section:

23 (1) ELIGIBLE APPLICANT.—The term “eligible
24 applicant” means a State department of transpor-
25 tation or a group of State departments of transpor-
26 tation, a local government, a tribal government or

1 consortium of tribal governments, a transit agency,
2 a port authority, a metropolitan planning organiza-
3 tion, other political subdivisions of State or local
4 governments, or a multi-State or multi-jurisdictional
5 group of the aforementioned entities.

6 (2) ELIGIBLE PROJECT.—The term “eligible
7 project” means a surface transportation project or a
8 program of integrated surface transportation
9 projects closely related in the function they perform
10 that—

11 (A) is a capital project or projects—

12 (i) eligible for Federal financial assist-
13 ance under title 23, United States Code, or
14 under chapter 53 of title 49, United States
15 Code; or

16 (ii) for surface transportation infra-
17 structure to facilitate intermodal inter-
18 change, transfer, and access into and out
19 of intermodal facilities, including ports;
20 and

21 (B) has eligible project costs that are rea-
22 sonably anticipated to equal or exceed the lesser
23 of—

24 (i) \$500,000,000;

1 (ii) for a project located in a single
 2 State, ~~60~~ 30 percent of the amount of Fed-
 3 eral-aid highway funds apportioned for the
 4 most recently completed fiscal year to the
 5 State; or

6 (iii) for a project located in more than
 7 1 State, 75 percent of the amount of Fed-
 8 eral-aid highway funds apportioned for the
 9 most recently completed fiscal year to the
 10 State *in which the project is located* that
 11 has the largest apportionment.

12 (3) ELIGIBLE PROJECT COSTS.—The term “eli-
 13 gible project costs” means the costs of—

14 (A) development phase activities, including
 15 planning, feasibility analysis, revenue fore-
 16 casting, environmental review, preliminary engi-
 17 neering and design work, and other
 18 preconstruction activities;

19 (B) construction, reconstruction, rehabili-
 20 tation, and acquisition of real property (includ-
 21 ing land related to the project and improve-
 22 ments to land), environmental mitigation, con-
 23 struction contingencies, acquisition of equip-
 24 ment directly related to improving system per-
 25 formance, and operational improvements; and

1 (C) all financing costs, including subsidy
2 costs under the Transportation Infrastructure
3 Finance and Innovation Act program.

4 (d) SOLICITATIONS AND APPLICATIONS.—

5 (1) GRANT SOLICITATIONS.—The Secretary
6 shall establish criteria for project evaluation and
7 conduct a transparent and competitive national solic-
8 itation process to select projects for funding to carry
9 out the purposes of this section.

10 (2) APPLICATIONS.—

11 (A) IN GENERAL.—An eligible applicant
12 seeking a grant under this section for an eligi-
13 ble project shall submit an application to the
14 Secretary in such form and in accordance with
15 such requirements as the Secretary shall estab-
16 lish.

17 (B) CONTENTS.—An application under
18 this subsection shall, at a minimum, include
19 data on current system performance and esti-
20 mated system improvements that will result
21 from completion of the eligible project, includ-
22 ing projections for 2, 7, and 15 years after
23 completion.

24 (C) RESUBMISSION OF APPLICATIONS.—An
25 eligible applicant whose project is not selected

1 by the Secretary may resubmit an application
2 in any subsequent solicitation.

3 (e) CRITERIA FOR PROJECT EVALUATION AND SE-
4 LECTION.—

5 (1) IN GENERAL.—The Secretary may select a
6 project only if the Secretary determines that the
7 project—

8 (A) will significantly improve the perform-
9 ance of the national surface transportation net-
10 work, nationally or regionally;

11 (B) is based on the results of preliminary
12 engineering;

13 (C) cannot be readily and efficiently com-
14 pleted without Federal support from this pro-
15 gram;

16 (D) is justified based on the ability of the
17 project—

18 (i) to generate national economic ben-
19 efits that reasonably exceed its costs, in-
20 cluding increased access to jobs, labor, and
21 other critical economic inputs;

22 (ii) to reduce long-term congestion, in-
23 cluding impacts in the State, region, and
24 Nation, and increase speed, reliability, and

accessibility of the movement of people or freight; and

(iii) to improve transportation safety, including reducing transportation accidents, ~~injuries~~, *and serious injuries* and fatalities; and

(E) is supported by an acceptable degree of non-Federal financial commitments, including evidence of stable and dependable financing sources to construct, maintain, and operate the infrastructure facility.

(2) ADDITIONAL CONSIDERATIONS.—In evaluating a project under this section, in addition to the criteria in paragraph (1), the Secretary shall consider the extent to which the project—

(A) leverages Federal investment by encouraging non-Federal contributions to the project, including contributions from public-private 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;

1 (E) helps maintain or protect the environ-
2 ment;

3 (F) improves roadways vital to national en-
4 ergy security;

5 (G) uses innovative technologies, including
6 intelligent transportation systems, that enhance
7 the efficiency of the project; and

8 (H) contributes to an equitable geographic
9 distribution of funds *under this section* and an
10 appropriate balance in addressing the needs of
11 urban and rural communities.

12 (f) GRANT REQUIREMENTS.—

13 (1) IN GENERAL.—A grant for a project under
14 this section shall be subject to the following require-
15 ments:

16 (A) A qualifying highway project eligible
17 for funding under title 23, United States Code,
18 or public transportation project eligible under
19 chapter 53 of title 49, United States Code, shall
20 comply with all applicable requirements of such
21 title or chapter except that, if the project con-
22 tains elements or activities that are not eligible
23 for funding under such title or chapter but are
24 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, {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

1 real property resulting from the project assisted
2 under this section.

3 ~~(g) FEDERAL SHARE OF PROJECT COST.~~—The Fed-
4 eral share of funds under this section for the project shall
5 be up to 50 percent of the project cost. Other eligible Fed-
6 eral transportation funds may be used by the project spon-
7 sor up to an additional 30 percent of the project costs.
8 If a project is to construct or improve a privately owned
9 facility or would primarily benefit a private entity, the
10 Federal share shall be the lesser of 50 percent of the total
11 project cost or the quantified public benefit of the project.
12 The Secretary may allow costs incurred prior to project
13 approval to be used as a credit toward the non-Federal
14 share of the cost of the project. Such costs must be ade-
15 quately documented, necessary, reasonable and allocable
16 to the current phase of the project and such costs may
17 not be included as a cost or used to meet cost sharing
18 or matching requirements of any other federally financed
19 project.

20 *(g) FEDERAL SHARE OF PROJECT COST.*—

21 *(1) IN GENERAL.—If a project funded under this*
22 *section is to construct or improve a privately owned*
23 *facility or would primarily benefit a private entity,*
24 *the Federal share shall be the lesser of 50 percent of*
25 *the total project cost or the quantified public benefit*

1 *of the project. For all other projects funded under this*
2 *section—*

3 *(A) the Federal share of funds under this*
4 *section shall be up to 50 percent of the project*
5 *cost; and*

6 *(B) the project sponsor may use other eligi-*
7 *ble Federal transportation funds to cover up to*
8 *an additional 30 percent of the project costs.*

9 *(2) PRE-APPROVAL COSTS.—The Secretary may*
10 *allow costs incurred prior to project approval to be*
11 *used as a credit toward the non-Federal share of the*
12 *cost of the project. Such costs must be adequately doc-*
13 *umented, necessary, reasonable, and allocable to the*
14 *current phase of the project and such costs may not*
15 *be included as a cost or used to meet cost-sharing or*
16 *matching requirements of any other federally-financed*
17 *project.*

18 (h) REPORT TO THE SECRETARY.—For each project
19 funded under this section, the project sponsor shall reas-
20 sess system performance and report to the Secretary 2,
21 7, and 15 years after completion of the project to assess
22 if the project outcomes have met pre-construction projec-
23 tions.

24 (i) AUTHORIZATION OF APPROPRIATIONS.—There is
25 authorized to be appropriated to carry out this section,

1 to remain available until expended, \$1,000,000,000 for fis-
 2 cal year 2013.

3 (j) TREATMENT OF PROJECTS.—Notwithstanding
 4 any other provision of law, projects funded under this sec-
 5 tion shall be treated as projects on a Federal-aid ~~system~~
 6 *highway* under chapter 1 of title 23, United States Code.

7 **Subtitle B—Performance** 8 **Management**

9 **SEC. 1201. METROPOLITAN TRANSPORTATION PLANNING.**

10 Section 134 of title 23, United States Code, is
 11 amended to read as follows:

12 **“§ 134. Metropolitan transportation planning**

13 “(a) POLICY.—It is in the national interest—

14 “(1) to encourage and promote the safe, cost-
 15 effective, and efficient management, operation, and
 16 development of surface transportation systems that
 17 will serve efficiently the mobility needs of individuals
 18 and freight, reduce transportation-related fatalities
 19 and *serious* injuries, and foster economic growth and
 20 development within and between States and urban-
 21 ized areas, while fitting the needs and complexity of
 22 individual communities, maximizing value for tax-
 23 payers, leveraging cooperative investments, and
 24 minimizing transportation-related fuel consumption
 25 and air pollution through the metropolitan and

1 statewide transportation planning processes identi-
2 fied in this title;

3 “(2) to encourage the continued improvement,
4 evolution, and coordination of the metropolitan and
5 statewide transportation planning processes by and
6 among metropolitan planning organizations, State
7 departments of transportation, regional planning or-
8 ganizations, interstate partnerships, and public tran-
9 sit and intercity service operators as guided by the
10 planning factors identified in subsection (h) of this
11 section and section 135(d);

12 “(3) to encourage and promote transportation
13 needs and decisions that are integrated with other
14 planning needs and priorities; and

15 “(4) to maximize the effectiveness of transpor-
16 tation investments.

17 “(b) DEFINITIONS.—In this section and section 135,
18 the following definitions apply:

19 “(1) EXISTING MPO.—The term ‘existing MPO’
20 mens a metropolitan planning organization that was
21 designated as a metropolitan planning organization
22 on the day before the date of enactment of the
23 MAP–21.

24 “(2) LOCAL OFFICIAL.—The term ‘local official’
25 means any elected or appointed official of general

1 purpose local government with responsibility for
2 transportation in a designated area.

3 “(3) MAINTENANCE AREA.—The term ‘mainte-
4 nance area’ means an area that was designated as
5 an air quality nonattainment area, but was later re-
6 designated by the Administrator of the Environ-
7 mental Protection Agency as an air quality attain-
8 ment area, under section 107(d) of the Clean Air
9 Act (42 U.S.C. 7407(d)).

10 “(4) METROPOLITAN PLANNING AREA.—The
11 term ‘metropolitan planning area’ means a geo-
12 graphical area determined by agreement between the
13 metropolitan planning organization for the area and
14 the applicable Governor under subsection (c).

15 “(5) METROPOLITAN PLANNING ORGANIZA-
16 TION.—The term ‘metropolitan planning organiza-
17 tion’ means the policy board of an organization es-
18 tablished pursuant to subsection (c).

19 “(6) METROPOLITAN TRANSPORTATION
20 PLAN.—The term ‘metropolitan transportation plan’
21 means a plan developed by a metropolitan planning
22 organization under subsection (i).

23 “(7) NONATTAINMENT AREA.—The term ‘non-
24 attainment area’ has the meaning given the term in
25 section 171 of the Clean Air Act (42 U.S.C. 7501).

1 “(8) NONMETROPOLITAN AREA.—

2 “(A) IN GENERAL.—The term ‘nonmetro-
3 politan area’ means a geographical area outside
4 the boundaries of a designated metropolitan
5 planning area.

6 “(B) INCLUSIONS.—The term ‘nonmetro-
7 politan area’ includes small urbanized and non-
8 urbanized areas.

9 ~~“(9) NONMETROPOLITAN PLANNING ORGANIZA-~~
10 ~~TION.—~~

11 ~~“(A) IN GENERAL.—The term ‘nonmetro-~~
12 ~~politan planning organization’ means an organi-~~
13 ~~zation designated by a State to enhance the~~
14 ~~planning, coordination, and implementation of~~
15 ~~statewide transportation plans and programs in~~
16 ~~a nonmetropolitan area, with an emphasis on~~
17 ~~addressing the needs of nonmetropolitan areas~~
18 ~~of the State.~~

19 ~~“(B) INCLUSION.—The term ‘nonmetro-~~
20 ~~politan planning organization’ includes a rural~~
21 ~~planning organization.~~

22 ~~“(9) NONMETROPOLITAN PLANNING ORGANIZA-~~
23 ~~TION.—The term ‘nonmetropolitan planning organi-~~
24 ~~zation’ means an organization that—~~

1 “(A) was designated as a metropolitan
2 planning organization as of the day before the
3 date of enactment of the MAP-21; and

4 “(B) is not designated as a tier I or tier II
5 metropolitan planning organization.

6 “(10) REGIONALLY SIGNIFICANT.—The term
7 ‘regionally significant’, with respect to a transpor-
8 tation project, program, service, or strategy, means
9 a project, program, service, or strategy that—

10 “(A) serves regional transportation needs
11 (such as access to and from the area outside of
12 the region, major activity centers in the region,
13 and major planned developments); and

14 “(B) would normally be included in the
15 modeling of a transportation network of a met-
16 ropolitan area.

17 “(11) RURAL PLANNING ORGANIZATION.—The
18 term ‘rural planning organization’ means an organi-
19 zation that—

20 “(A) was designated as a metropolitan
21 planning organization as of the day before the
22 date of enactment of the MAP-21; and

23 “(B) is not designated as a tier I or tier II
24 metropolitan planning organization.

1 “(11)(12) STATEWIDE TRANSPORTATION IM-
 2 PROVEMENT PROGRAM.—The term ‘statewide trans-
 3 portation improvement program’ means a statewide
 4 transportation improvement program developed by a
 5 State under section 135(g).

6 “(12)(13) STATEWIDE TRANSPORTATION
 7 PLAN.—The term ‘statewide transportation plan’
 8 means a plan developed by a State under section
 9 135(f).

10 “(13)(14) TRANSPORTATION IMPROVEMENT
 11 PROGRAM.—The term ‘transportation improvement
 12 program’ means a program developed by a metro-
 13 politan planning organization under subsection (j).

14 “(14)(15) URBANIZED AREA.—The term ‘ur-
 15 banized area’ means a geographical area with a pop-
 16 ulation of 50,000 or more individuals, as determined
 17 by the Bureau of the Census.

18 “(c) DESIGNATION OF METROPOLITAN PLANNING
 19 ORGANIZATIONS.—

20 “(1) IN GENERAL.—To carry out the metropoli-
 21 tan transportation planning process under this sec-
 22 tion, a metropolitan planning organization shall be
 23 designated for each urbanized area with a population
 24 of more than 200,000 individuals—

1 “(A) by agreement between the applicable
2 Governor and local officials that, in the aggre-
3 gate, represent at least 75 percent of the af-
4 fected population (including the largest incor-
5 porated city (based on population), as deter-
6 mined by the Bureau of the Census); or

7 “(B) in accordance with procedures estab-
8 lished by applicable State or local law.

9 “(2) SMALL URBANIZED AREAS.—To carry out
10 the metropolitan transportation planning process
11 under this section, a metropolitan planning organiza-
12 tion may be designated for any urbanized area with
13 a population of more than 50,000, but less than
14 200,000, individuals—

15 “(A) by agreement between the applicable
16 Governor and local officials that, in the aggre-
17 gate, represent at least 75 percent of the af-
18 fected population (including the largest incor-
19 porated city (based on population), as deter-
20 mined by the Bureau of the Census); and

21 “(B) with the consent of the Secretary,
22 based on a finding that the resulting metropoli-
23 tan planning organization has met the min-
24 imum requirements under subsection (e)(4)(B).

1 “(3) STRUCTURE.—Effective beginning on the
2 date of designation or redesignation under this sub-
3 section, a metropolitan planning organization shall
4 consist of—

5 “(A) elected local officials in the relevant
6 metropolitan area;

7 “(B) officials of public agencies that ad-
8 minister or operate major modes of transpor-
9 tation in the relevant metropolitan area; and

10 “(C) appropriate State officials.

11 “(4) EFFECT OF SUBSECTION.—Nothing in this
12 subsection interferes with any authority under any
13 State law in effect on December 18, 1991, of a pub-
14 lic agency with multimodal transportation respon-
15 sibilities—

16 “(A) to develop the metropolitan transpor-
17 tation plans and transportation improvement
18 programs for adoption by a metropolitan plan-
19 ning organization; or

20 “(B) to develop capital plans, coordinate
21 transit services and projects, or carry out other
22 activities pursuant to State law.

23 “(5) CONTINUING DESIGNATION.—A designa-
24 tion of a metropolitan planning organization under
25 this subsection or any other provision of law—

1 “(A) for an urbanized area with a popu-
2 lation of 200,000 or more individuals shall re-
3 main in effect—

4 “(i) for the period during which the
5 structure of the existing MPO complies
6 with the requirements of paragraph (1); or

7 “(ii) until the date on which the exist-
8 ing MPO is redesignated under paragraph
9 (7); and

10 “(B) for an urbanized area with a popu-
11 lation of less than 200,000 individuals, shall be
12 terminated on the date that is 3 years after the
13 date on which the Secretary promulgates a reg-
14 ulation pursuant to subsection (e)(4)(B)(i), un-
15 less reaffirmed by the existing MPO and the
16 applicable Governor and approved by the Sec-
17 retary, on the basis of meeting the minimum re-
18 quirements established by the regulation.

19 “(6) EXTENSION.—

20 “(A) IN GENERAL.—If the applicable Gov-
21 ernor, acting on behalf of a metropolitan plan-
22 ning organization for an urbanized area with a
23 population of less than 200,000 that would oth-
24 erwise be terminated under paragraph (5)(B),
25 requests a probationary continuation before the

1 termination of the metropolitan planning orga-
2 nization, the Secretary shall—

3 “(i) delay the termination of the met-
4 ropolitan planning organization under
5 paragraph (5)(B) for a period of 1 year;
6 and

7 “(ii) provide additional technical as-
8 sistance to all metropolitan planning orga-
9 nizations provided an extension under this
10 paragraph to assist the metropolitan plan-
11 ning organization in meeting the minimum
12 requirements under subsection (e)(4)(B)(i).

13 “(B) DESIGNATION AS TIER II MPO.—If
14 the Secretary determines the metropolitan plan-
15 ning organization has met the minimum re-
16 quirements under subsection (e)(4)(B)(i) before
17 the final termination date, the metropolitan
18 planning organization shall be designated as a
19 tier II MPO.

20 “(7) REDESIGNATION.—The designation of a
21 metropolitan planning organization under this sub-
22 section shall remain in effect until the date on which
23 the metropolitan planning organization is redesign-
24 nated, as appropriate, in accordance with the re-

1 requirements of this subsection pursuant to an agree-
2 ment between—

3 “(A) the applicable Governor; and

4 “(B) affected local officials who, in the ag-
5 gregate, represent at least 75 percent of the ex-
6 isting metropolitan planning area population
7 (including the largest incorporated city (based
8 on population), as determined by the Bureau of
9 the Census).

10 “(8) DESIGNATION OF MULTIPLE MPOS.—

11 “(A) IN GENERAL.—More than 1 metro-
12 politan planning organization may be des-
13 ignated within an existing metropolitan plan-
14 ning area only if the applicable Governor and
15 an existing MPO determine that the size and
16 complexity of the existing metropolitan planning
17 area make the designation of more than 1 met-
18 ropolitan planning organization for the metro-
19 politan planning area appropriate.

20 “(B) SERVICE JURISDICTIONS.—If more
21 than 1 metropolitan planning organization is
22 designated for an existing metropolitan plan-
23 ning area under subparagraph (A), the existing
24 metropolitan planning area shall be split into
25 multiple metropolitan planning areas, each of

1 which shall be served by the existing MPO or
2 a new metropolitan planning organization.

3 “(C) TIER DESIGNATION.—The tier des-
4 ignation of each metropolitan planning organi-
5 zation subject to a designation under this para-
6 graph shall be determined based on the size of
7 each respective metropolitan planning area, in
8 accordance with subsection (e)(4).

9 “(d) METROPOLITAN PLANNING AREA BOUND-
10 ARIES.—

11 “(1) IN GENERAL.—For purposes of this sec-
12 tion, the boundaries of a metropolitan planning area
13 shall be determined by agreement between the appli-
14 cable metropolitan planning organization and the
15 Governor of the State in which the metropolitan
16 planning area is located.

17 “(2) INCLUDED AREA.—Each metropolitan
18 planning area—

19 “(A) shall encompass at least the relevant
20 existing urbanized area and any contiguous
21 area expected to become urbanized within a 20-
22 year forecast period under the applicable metro-
23 politan transportation plan; and

1 “(B) may encompass the entire relevant
2 metropolitan statistical area, as defined by the
3 Office of Management and Budget.

4 “(3) IDENTIFICATION OF NEW URBANIZED
5 AREAS.—The designation by the Bureau of the Cen-
6 sus of a new urbanized area within the boundaries
7 of an existing metropolitan planning area shall not
8 require the redesignation of the relevant existing
9 MPO.

10 “(4) NONATTAINMENT AND MAINTENANCE
11 AREAS.—

12 “(A) EXISTING METROPOLITAN PLANNING
13 AREAS.—

14 “(i) IN GENERAL.—Except as pro-
15 vided in clause (ii), notwithstanding para-
16 graph (2), in the case of an urbanized area
17 designated as a nonattainment area or
18 maintenance area as of the date of enact-
19 ment of the MAP-21, the boundaries of
20 the existing metropolitan planning area as
21 of that date of enactment shall remain in
22 force and effect.

23 “(ii) EXCEPTION.—Notwithstanding
24 clause (i), the boundaries of an existing
25 metropolitan planning area described in

1 that clause may be adjusted by agreement
2 of the applicable Governor and the affected
3 metropolitan planning organizations in ac-
4 cordance with subsection (c)(5).

5 “(B) NEW METROPOLITAN PLANNING
6 AREAS.—In the case of an urbanized area des-
7 ignated as a nonattainment area or mainte-
8 nance area after the date of enactment of the
9 MAP-21, the boundaries of the applicable met-
10 ropolitan planning area—

11 “(i) shall be established in accordance
12 with subsection (c)(1);

13 “(ii) shall encompass the areas de-
14 scribed in paragraph (2)(A);

15 “(iii) may encompass the areas de-
16 scribed in paragraph (2)(B); and

17 “(iv) may address any appropriate
18 nonattainment area or maintenance area.

19 “(e) REQUIREMENTS.—

20 “(1) DEVELOPMENT OF PLANS AND TIPS.—To
21 accomplish the policy objectives described in sub-
22 section (a), each metropolitan planning organization,
23 in cooperation with the applicable State and public
24 transportation operators, shall develop metropolitan
25 transportation plans and transportation improve-

1 ment programs for metropolitan planning areas of
2 the State through a performance-driven, outcome-
3 based approach to metropolitan transportation plan-
4 ning consistent with subsection (h)(2).

5 “(2) CONTENTS.—The metropolitan transpor-
6 tation plans and transportation improvement pro-
7 grams for each metropolitan area shall provide for
8 the development and integrated management and
9 operation of transportation systems and facilities
10 (including accessible pedestrian walkways, bicycle
11 transportation facilities, and intermodal facilities
12 that support intercity transportation) that will func-
13 tion as—

14 “(A) an intermodal transportation system
15 for the metropolitan planning area; and

16 “(B) an integral part of an intermodal
17 transportation system for the applicable State
18 and the United States.

19 “(3) PROCESS OF DEVELOPMENT.—The process
20 for developing metropolitan transportation plans and
21 transportation improvement programs shall—

22 “(A) provide for consideration of all modes
23 of transportation; and

24 “(B) be continuing, cooperative, and com-
25 prehensive to the degree appropriate, based on

1 the complexity of the transportation needs to be
2 addressed.

3 “(4) TIERING.—

4 “(A) TIER I MPOS.—

5 “(i) IN GENERAL.—A metropolitan
6 planning organization shall be designated
7 as a tier I MPO if—

8 “(I) as certified by the Governor
9 of each applicable State, the metro-
10 politan planning organization operates
11 within, and primarily serves, a metro-
12 politan planning area with a popu-
13 lation of 1,000,000 or more individ-
14 uals, as calculated according to the
15 most recent decennial census; and

16 “(II) the Secretary determines
17 the metropolitan planning organiza-
18 tion—

19 “(aa) meets the minimum
20 technical requirements under
21 clause (iv); and

22 “(bb) not later than 2 years
23 after the date of enactment of
24 the MAP-21, will fully imple-

1 ment the processes described in
2 subsections (h) though (j).

3 “(ii) ABSENCE OF DESIGNATION.—In
4 the absence of designation as a tier I MPO
5 under clause (i), a metropolitan planning
6 organization shall operate as a tier II
7 MPO until the date on which the Secretary
8 determines the metropolitan planning orga-
9 nization can meet the minimum technical
10 requirements under clause (iv).

11 “(iii) REDESIGNATION AS TIER I.—A
12 metropolitan planning organization oper-
13 ating within a metropolitan planning area
14 with a population of less than 1,000,000,
15 but more than 200,000, individuals and
16 primarily within urbanized areas with pop-
17 ulations of more than 200,000 individuals,
18 as calculated according to the most recent
19 decennial census, that is designated as a
20 tier II MPO under subparagraph (B) may
21 request, with the support of the applicable
22 Governor, a redesignation as a tier I MPO
23 on a determination by the Secretary that
24 the metropolitan planning organization has

1 met the minimum technical requirements
2 under clause (iv).

3 “(iv) MINIMUM TECHNICAL REQUIRE-
4 MENTS.—Not later than 1 year after the
5 date of enactment of the MAP-21, the
6 Secretary shall publish a regulation that
7 establishes the minimum technical require-
8 ments necessary for a metropolitan plan-
9 ning organization to be designated as a
10 tier I MPO, including, at a minimum,
11 modeling, data, staffing, and other tech-
12 nical requirements.

13 “(B) TIER II MPOS.—

14 “(i) IN GENERAL.—Not later than 1
15 year after the date of enactment of the
16 MAP-21, the Secretary shall publish a
17 regulation that establishes minimum re-
18 quirements necessary for a metropolitan
19 planning organization to be designated as
20 a tier II MPO.

21 “(ii) REQUIREMENTS.—The minimum
22 requirements established under clause (i)
23 shall—

24 “(I) ensure that each metropoli-
25 tan planning organization has the ca-

1 pabilities necessary to develop the
2 metropolitan transportation plan and
3 transportation improvement program
4 under this section; and

5 “(II) include—

6 “(aa) only the staff re-
7 sources necessary to operate the
8 metropolitan planning organiza-
9 tion; and

10 “(bb) a requirement that the
11 metropolitan planning organiza-
12 tion has the technical capacity to
13 conduct the modeling necessary
14 to fulfill the requirements of this
15 section, except that in cases in
16 which a metropolitan planning
17 organization has a formal agree-
18 ment with a State to conduct the
19 modeling on behalf of the metro-
20 politan planning organization, the
21 metropolitan planning organiza-
22 tion shall be exempt from the
23 technical capacity requirement.

24 “(iii) INCLUSION.—A metropolitan
25 planning organization operating primarily

1 within an urbanized area with a population
2 of more than 200,000 individuals, as cal-
3 culated according to the most recent de-
4 cennial census, and that does not qualify
5 as a tier I MPO under subparagraph
6 (A)(i), shall—

7 “(I) be designated as a tier II
8 MPO; and

9 “(II) follow the processes under
10 subsection (k).

11 “(C) SMALL URBANIZED AREAS.—

12 “(i) IN GENERAL.—Not later than 2
13 years after the date of publication of the
14 regulation under subparagraph (B)(i), any
15 existing MPO operating primarily within
16 an urbanized area with a population of
17 fewer than 200,000, but more than
18 50,000, individuals (as determined before
19 the date of enactment of the MAP-21),
20 with the support of the applicable Gov-
21 ernor, may request designation as a tier II
22 MPO on a determination by the Secretary
23 that the metropolitan planning organiza-
24 tion has met the minimum requirements
25 under subparagraph (B)(i).

1 “(ii) ABSENCE OF DESIGNATION.—A
2 metropolitan planning organization that is
3 the subject of a negative determination of
4 the Secretary under clause (i) shall submit
5 to the State in which the metropolitan
6 planning organization is located, or to a
7 planning organization designated by the
8 State, by not later than 180 days after the
9 date on which a notice of the negative de-
10 termination is received, a 6-month plan
11 that includes a description of a method—

12 “(I) to transfer the responsibil-
13 ities of the metropolitan planning or-
14 ganization to the State; and

15 “(II) to dissolve the metropolitan
16 planning organization.

17 “(iii) ACTION ON DISSOLUTION.—On
18 submission of a plan under clause (ii), the
19 metropolitan planning area served by the
20 applicable metropolitan planning organiza-
21 tion shall—

22 “(I) continue to receive metro-
23 politan transportation planning funds
24 until the earlier of—

1 “(aa) the date of dissolution
2 of the metropolitan planning or-
3 ganization; and

4 “(bb) the date that is 4
5 years after the date of enactment
6 of the MAP-21; and

7 “(II) be treated by the State as
8 a nonmetropolitan area for purposes
9 of this title.

10 “(D) CONSOLIDATION.—

11 “(i) IN GENERAL.—Metropolitan plan-
12 ning organizations operating within contig-
13 uous or adjacent urbanized areas may elect
14 to consolidate in order to meet the popu-
15 lation thresholds required to achieve des-
16 ignation as a tier I or tier II MPO under
17 this paragraph.

18 “(ii) EFFECT OF SUBSECTION.—
19 Nothing in this subsection requires or pre-
20 vents consolidation among multiple metro-
21 politan planning organizations located
22 within a single urbanized area.

23 “(f) COORDINATION IN MULTISTATE AREAS.—

24 “(1) IN GENERAL.—The Secretary shall encour-
25 age each Governor with responsibility for a portion

1 of a multistate metropolitan area and the appro-
2 priate metropolitan planning organizations to pro-
3 vide coordinated transportation planning for the en-
4 tire metropolitan area.

5 “(2) COORDINATION ALONG DESIGNATED
6 TRANSPORTATION CORRIDORS.—The Secretary shall
7 encourage each Governor with responsibility for a
8 portion of a multistate metropolitan area and the
9 appropriate metropolitan planning organizations to
10 provide coordinated transportation planning for the
11 entire designated transportation corridor.

12 “(3) COORDINATION WITH INTERSTATE COM-
13 PACTS.—The Secretary shall encourage metropolitan
14 planning organizations to take into consideration,
15 during the development of metropolitan transpor-
16 tation plans and transportation improvement pro-
17 grams, any relevant transportation studies con-
18 cerning planning for regional transportation (includ-
19 ing high-speed and intercity rail corridor studies,
20 commuter rail corridor studies, intermodal termi-
21 nals, and interstate highways) in support of freight,
22 intercity, or multistate area projects and services
23 that have been developed pursuant to interstate com-
24 pacts or agreements, or by organizations established
25 under section 135.

1 “(g) ENGAGEMENT IN METROPOLITAN TRANSPOR-
2 TATION PLAN AND TIP DEVELOPMENT.—

3 “(1) NONATTAINMENT AND MAINTENANCE
4 AREAS.—If more than 1 metropolitan planning orga-
5 nization has authority within a metropolitan area,
6 nonattainment area, or maintenance area, each met-
7 ropolitan planning organization shall consult with
8 each other metropolitan planning organization des-
9 ignated for the metropolitan area, nonattainment
10 area, or maintenance area and the State in the de-
11 velopment of metropolitan transportation plans and
12 transportation improvement programs under this
13 section.

14 “(2) TRANSPORTATION IMPROVEMENTS LO-
15 CATED IN MULTIPLE METROPOLITAN PLANNING
16 AREAS.—If a transportation improvement project
17 funded under this title or chapter 53 of title 49 is
18 located within the boundaries of more than 1 metro-
19 politan planning area, the affected metropolitan
20 planning organizations shall coordinate metropolitan
21 transportation plans and transportation improve-
22 ment programs regarding the project.

23 “(3) COORDINATION OF ADJACENT PLANNING
24 ORGANIZATIONS.—

1 “(A) IN GENERAL.—A metropolitan plan-
2 ning organization that is adjacent or located in
3 reasonably close proximity to another metropoli-
4 tan planning organization shall coordinate with
5 that metropolitan planning organization with
6 respect to planning processes, including prepa-
7 ration of metropolitan transportation plans and
8 transportation improvement programs, to the
9 maximum extent practicable.

10 “(B) NONMETROPOLITAN PLANNING ORGA-
11 NIZATIONS.—A metropolitan planning organiza-
12 tion that is adjacent or located in reasonably
13 close proximity to a nonmetropolitan planning
14 organization shall consult with that nonmetro-
15 politan planning organization with respect to
16 planning processes, to the maximum extent
17 practicable.

18 “(4) RELATIONSHIP WITH OTHER PLANNING
19 OFFICIALS.—

20 “(A) IN GENERAL.—The Secretary shall
21 encourage each metropolitan planning organiza-
22 tion to cooperate with Federal, tribal, State,
23 and local officers and entities responsible for
24 other types of planning activities that are af-
25 fected 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

1 Transportation to provide nonemergency
2 transportation services; and

3 “(iv) sponsors of regionally significant
4 programs, projects, and services that are
5 related to transportation and receive as-
6 sistance from any public or private source.

7 “(5) COORDINATION OF OTHER FEDERALLY RE-
8 QUIRED PLANNING PROGRAMS.—The Secretary shall
9 encourage each metropolitan planning organization
10 to coordinate, to the maximum extent practicable,
11 the development of metropolitan transportation
12 plans and transportation improvement programs
13 with other relevant federally required planning pro-
14 grams.

15 “(h) SCOPE OF PLANNING PROCESS.—

16 “(1) IN GENERAL.—The metropolitan transpor-
17 tation planning process for a metropolitan planning
18 area under this section shall provide for consider-
19 ation of projects and strategies that will—

20 “(A) support the economic vitality of the
21 metropolitan area, especially by enabling global
22 competitiveness, productivity, and efficiency;

23 “(B) increase the safety of the transpor-
24 tation system for motorized and nonmotorized
25 users;

1 “(C) increase the security of the transpor-
 2 tation system for motorized and nonmotorized
 3 users;

4 “(D) increase the accessibility and mobility
 5 of individuals and freight;

6 “(E) protect and enhance the environment,
 7 promote energy conservation, improve the qual-
 8 ity of life, and promote consistency between
 9 transportation improvements and State and
 10 local planned growth and economic development
 11 patterns;

12 “(F) enhance the integration and
 13 connectivity of the transportation system,
 14 across and between modes, for individuals and
 15 freight;

16 “(G) increase efficient system management
 17 and operation; and

18 “(H) emphasize the preservation of the ex-
 19 isting transportation system.

20 “(2) PERFORMANCE-BASED APPROACH.—

21 “(A) IN GENERAL.—The metropolitan
 22 transportation planning process shall provide
 23 for the establishment and use of a performance-
 24 based approach to transportation decision-

1 making to support the national goals described
2 in section 150(b).

3 “(B) PERFORMANCE TARGETS.—

4 “(i) IN GENERAL.—Each metropolitan
5 planning organization shall establish per-
6 formance targets that address the perform-
7 ance measures described in sections 119(f),
8 148(h), 149(k), *where applicable*, and
9 167(i) to use in tracking attainment of
10 critical outcomes for the region of the met-
11 ropolitan planning organization.

12 “(ii) COORDINATION.—Selection of
13 performance targets by a metropolitan
14 planning organization shall be coordinated
15 with the relevant State to ensure consist-
16 ency, to the maximum extent practicable.

17 “(C) TIMING.—Each metropolitan plan-
18 ning organization shall establish the perform-
19 ance targets under subparagraph (B) not later
20 than 90 days after the date of establishment by
21 the relevant State of performance targets pur-
22 suant to sections 119(f), 148(h), 149(k), *where*
23 *applicable*, and 167(i).

24 “(D) INTEGRATION OF OTHER PERFORM-
25 ANCE-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~~ *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

1 transportation plan and transportation improve-
2 ment program.

3 “(3) FAILURE TO CONSIDER FACTORS.—The
4 failure to take into consideration 1 or more of the
5 factors specified in paragraphs (1) and (2) shall not
6 be subject to review by any court under this title,
7 chapter 53 of title 49, subchapter II of chapter 5 of
8 title 5, or chapter 7 of title 5 in any matter affecting
9 a metropolitan transportation plan, a transportation
10 improvement program, a project or strategy, or the
11 certification of a planning process.

12 “(4) PARTICIPATION BY INTERESTED PAR-
13 TIES.—

14 “(A) IN GENERAL.—Each metropolitan
15 planning organization shall provide to affected
16 individuals, public agencies, and other inter-
17 ested parties notice and a reasonable oppor-
18 tunity to comment on the metropolitan trans-
19 portation plan and transportation improvement
20 program and any relevant scenarios.

21 “(B) METHODS.—In carrying out subpara-
22 graph (A), the metropolitan planning organiza-
23 tion shall, to the maximum extent practicable—

24 “(i) develop the metropolitan trans-
25 portation plan and transportation improve-

1 ment program in consultation with inter-
2 ested parties, as appropriate, including by
3 the formation of advisory groups represent-
4 ative of the community and interested par-
5 ties that participate in the development of
6 the metropolitan transportation plan and
7 transportation improvement program;

8 “(ii) hold any public meetings at
9 times and locations that are, as applica-
10 ble—

11 “(I) convenient; and

12 “(II) in compliance with the
13 Americans with Disabilities Act of
14 1990 (42 U.S.C. 12101 et seq.);

15 “(iii) employ visualization techniques
16 to describe metropolitan transportation
17 plans and transportation improvement pro-
18 grams; and

19 “(iv) make public information avail-
20 able in appropriate electronically accessible
21 formats and means, such as the Internet,
22 to afford reasonable opportunity for con-
23 sideration of public information under sub-
24 paragraph (A).

1 “(i) DEVELOPMENT OF METROPOLITAN TRANSPOR-
2 TATION PLAN.—

3 “(1) DEVELOPMENT.—

4 “(A) IN GENERAL.—Except as provided in
5 subparagraph (B), not later than 5 years after
6 the date of enactment of the MAP-21, and not
7 less frequently than once every 5 years there-
8 after, each metropolitan planning organization
9 shall prepare and update, respectively, a metro-
10 politan transportation plan for the relevant
11 metropolitan planning area in accordance with
12 this section.

13 “(B) EXCEPTIONS.—A metropolitan plan-
14 ning organization shall prepare or update, as
15 appropriate, the metropolitan transportation
16 plan not less frequently than once every 4 years
17 if the metropolitan planning organization is op-
18 erating within—

19 “(i) a nonattainment area; or

20 “(ii) a maintenance area.

21 “(2) OTHER REQUIREMENTS.—A metropolitan
22 transportation plan under this section shall—

23 “(A) be in a form that the Secretary deter-
24 mines to be appropriate;

1 “(B) have a term of not less than 20
2 years; and

3 “(C) contain, at a minimum—

4 “(i) an identification of the existing
5 transportation infrastructure, including
6 highways, local streets and roads, bicycle
7 and pedestrian facilities, transit facilities
8 and services, commuter rail facilities and
9 services, high-speed and intercity pas-
10 senger rail facilities and services, freight
11 facilities (including freight railroad and
12 port facilities), multimodal and intermodal
13 facilities, and intermodal connectors that,
14 evaluated in the aggregate, function as an
15 integrated metropolitan transportation sys-
16 tem;

17 “(ii) a description of the performance
18 measures and performance targets used in
19 assessing the existing and future perform-
20 ance of the transportation system in ac-
21 cordance with subsection (h)(2);

22 “(iii) a description of the current and
23 projected future usage of the transpor-
24 tation system, including a projection based
25 on a preferred scenario, and further in-

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

1 “(bb) the projects that have
2 been removed from the previous
3 transportation improvement pro-
4 gram; and

5 “(III) when appropriate, an anal-
6 ysis of how the preferred scenario has
7 improved the conditions and perform-
8 ance of the transportation system and
9 how changes in local policies, invest-
10 ments, and growth have impacted the
11 costs necessary to achieve the identi-
12 fied performance targets;

13 “(v) recommended strategies and in-
14 vestments for improving system perform-
15 ance over the planning horizon, including
16 transportation systems management and
17 operations strategies, maintenance strate-
18 gies, demand management strategies, asset
19 management strategies, capacity and en-
20 hancement investments, State and local
21 economic development and land use im-
22 provements, intelligent transportation sys-
23 tems deployment, and technology adoption
24 strategies, as determined by the projected

1 support of the performance targets de-
2 scribed in subsection (h)(2);

3 “(vi) recommended strategies and in-
4 vestments to improve and integrate dis-
5 ability-related access to transportation in-
6 frastructure, including strategies and in-
7 vestments based on a preferred scenario,
8 when appropriate;

9 “(vii) investment priorities for using
10 projected available and proposed revenues
11 over the short- and long-term stages of the
12 planning horizon, in accordance with the
13 financial plan required under paragraph
14 (4);

15 “(viii) a description of interstate com-
16 pacts entered into in order to promote co-
17 ordinated transportation planning in
18 multistate areas, if applicable;

19 “(ix) an optional illustrative list of
20 projects containing investments that—

21 “(I) are not included in the met-
22 ropolitan transportation plan; but

23 “(II) would be so included if re-
24 sources in addition to the resources

1 identified in the financial plan under
2 paragraph (4) were available;

3 “(x) a discussion (developed in con-
4 sultation with Federal, State, and tribal
5 wildlife, land management, and regulatory
6 agencies) of types of potential environ-
7 mental and stormwater mitigation activi-
8 ties and potential areas to carry out those
9 activities, including activities that may
10 have the greatest potential to restore and
11 maintain the environmental functions af-
12 fected by the metropolitan transportation
13 plan; and

14 “(xi) recommended strategies and in-
15 vestments, including those developed by
16 the State as part of interstate compacts,
17 agreements, or organizations, that support
18 intercity transportation.

19 ~~“(3) SCENARIO DEVELOPMENT.—When pre-~~
20 ~~paring the metropolitan transportation plan, the~~
21 ~~metropolitan planning organization may, while fit-~~
22 ~~ting the needs and complexity of their community,~~
23 ~~develop multiple scenarios for consideration as a~~
24 ~~part of the development of the metropolitan trans-~~
25 ~~portation plan, in accordance with the following:~~

1 “(A) The scenarios—

2 “(i) shall include potential regional in-
3 vestment strategies for the planning hori-
4 zon;

5 “(ii) shall include assumed distribu-
6 tion of population and employment;

7 “(iii) may include a scenario that, to
8 the maximum extent practicable, maintains
9 baseline conditions for the performance
10 measures identified in subsection (h)(2);

11 “(iv) may include a scenario that im-
12 proves the baseline conditions for as many
13 of the performance measures under sub-
14 section (h)(2) as possible;

15 “(v) may include a revenue con-
16 strained scenario based on total revenues
17 reasonable expected to be available over
18 the 20-year planning period and assumed
19 population and employment; and

20 “(vi) may include estimated costs and
21 potential revenues available to support
22 each scenario.

23 “(B) In addition to the performance meas-
24 ures identified in subsection (h)(2), scenarios
25 developed under this paragraph may be evalu-

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

1 *baseline conditions for the performance*
 2 *measures identified in subsection (h)(2);*

3 “(iv) *may include a scenario that im-*
 4 *proves the baseline conditions for as many*
 5 *of the performance measures under sub-*
 6 *section (h)(2) as possible;*

7 “(v) *shall be revenue constrained based*
 8 *on the total revenues expected to be avail-*
 9 *able over the forecast period of the plan;*
 10 *and*

11 “(vi) *may include estimated costs and*
 12 *potential revenues available to support each*
 13 *scenario.*

14 “(C) *METRICS.—In addition to the per-*
 15 *formance measures identified in subsection*
 16 *(h)(2), scenarios developed under this paragraph*
 17 *may be evaluated using locally-developed metrics*
 18 *for the following categories:*

19 “(i) *Congestion and mobility, includ-*
 20 *ing transportation use by mode.*

21 “(ii) *Freight movement.*

22 “(iii) *Safety.*

23 “(iv) *Efficiency and costs to taxpayers.*

24 “(4) *FINANCIAL PLAN.—A financial plan re-*
 25 *ferred to in paragraph (2)(C)(vii) shall—*

1 “(A) be prepared by each metropolitan
2 planning organization to support the metropoli-
3 tan transportation plan; and

4 “(B) contain a description of each of the
5 following:

6 “(i) Projected resource requirements
7 for implementing projects, strategies, and
8 services recommended in the metropolitan
9 transportation plan, including existing and
10 projected system operating and mainte-
11 nance needs, proposed enhancement and
12 expansions to the system, projected avail-
13 able revenue from Federal, State, local,
14 and private sources, and innovative financ-
15 ing techniques to finance projects and pro-
16 grams.

17 “(ii) The projected difference between
18 costs and revenues, and strategies for se-
19 curing additional new revenue (such as by
20 capture of some of the economic value cre-
21 ated by any new investment).

22 “(iii) Estimates of future funds, to be
23 developed cooperatively by the metropolitan
24 planning organization, any public transpor-
25 tation 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-

1 sible formats and means, such as the Internet;
2 and

3 “(B) submitted for informational purposes
4 to the applicable Governor.

5 “(7) CONSULTATION.—

6 “(A) IN GENERAL.—In each metropolitan
7 area, the metropolitan planning organization
8 shall consult, as appropriate, with Federal, trib-
9 al, State, and local agencies responsible for land
10 use management, natural resources, environ-
11 mental protection, conservation, and historic
12 preservation concerning the development of a
13 metropolitan transportation plan.

14 “(B) ISSUES.—The consultation under
15 subparagraph (A) shall involve, as available,
16 consideration of—

17 “(i) metropolitan transportation plans
18 with Federal, tribal, State, and local con-
19 servation plans or maps; and

20 “(ii) inventories of natural or historic
21 resources.

22 “(8) SELECTION OF PROJECTS FROM ILLUS-
23 TRATIVE LIST.—Notwithstanding paragraph (4), a
24 State or metropolitan planning organization shall
25 not be required to select any project from the illus-

1 trative list of additional projects included in the met-
2 ropolitan transportation plan under paragraph
3 (2)(C)(ix).

4 “(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

5 “(1) DEVELOPMENT.—

6 “(A) IN GENERAL.—In cooperation with
7 the applicable State and any affected public
8 transportation operator, the metropolitan plan-
9 ning organization designated for a metropolitan
10 area shall develop a transportation improvement
11 program for the metropolitan planning area
12 that—

13 “(i) contains projects consistent with
14 the current metropolitan transportation
15 plan;

16 “(ii) reflects the investment priorities
17 established in the current metropolitan
18 transportation plan; and

19 “(iii) once implemented, will make sig-
20 nificant progress toward achieving the tar-
21 gets established under subsection (h)(2).

22 “(B) OPPORTUNITY FOR PARTICIPA-
23 TION.—In developing the transportation im-
24 provement program, the metropolitan planning
25 organization, in cooperation with the State and

any affected public transportation operator,
shall provide an opportunity for participation by
interested parties, in accordance with sub-
section (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 state-
wide transportation improvement program
under section 135; and

“(ii) approved by the applicable Gov-
ernor.

“(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 rea-
sonably available revenues in accordance with
the financial plan under paragraph (3).

“(B) DESCRIPTIONS.—Each project de-
scribed in the transportation improvement pro-

1 gram shall include sufficient descriptive mate-
2 rial (such as type of work, termini, length, and
3 other similar factors) to identify the project or
4 phase of the project and the effect that the
5 project or project phase will have in addressing
6 the targets described in subsection (h)(2).

7 “(C) PERFORMANCE TARGET ACHIEVE-
8 MENT.—The transportation improvement pro-
9 gram shall include, to the maximum extent
10 practicable, a description of the anticipated ef-
11 fect of the transportation improvement program
12 on attainment of the performance targets estab-
13 lished in the metropolitan transportation plan,
14 linking investment priorities to those perform-
15 ance targets.

16 “(D) ILLUSTRATIVE LIST OF PROJECTS.—
17 In developing a transportation improvement
18 program, an optional illustrative list of projects
19 may be prepared containing additional invest-
20 ment priorities that—

21 “(i) are not included in the transpor-
22 tation improvement program; but

23 “(ii) would be so included if resources
24 in addition to the resources identified in

1 the financial plan under paragraph (3)
2 were available.

3 “(3) FINANCIAL PLAN.—A financial plan re-
4 ferred to in paragraph (2)(D)(ii) shall—

5 “(A) be prepared by each metropolitan
6 planning organization to support the transpor-
7 tation improvement program; and

8 “(B) contain a description of each of the
9 following:

10 “(i) Projected resource requirements
11 for implementing projects, strategies, and
12 services recommended in the transpor-
13 tation improvement program, including ex-
14 isting and projected system operating and
15 maintenance needs, proposed enhancement
16 and expansions to the system, projected
17 available revenue from Federal, State,
18 local, and private sources, and innovative
19 financing techniques to finance projects
20 and programs.

21 “(ii) The projected difference between
22 costs and revenues, and strategies for se-
23 curing additional new revenue (such as by
24 capture of some of the economic value cre-
25 ated by any new investment).

1 “(iii) Estimates of future funds, to be
2 developed cooperatively by the metropolitan
3 planning organization, any public transpor-
4 tation agency, and the State, that are rea-
5 sonably expected to be available to support
6 the investment priorities recommended in
7 the transportation improvement program.

8 “(iv) Each applicable project, only if
9 full funding can reasonably be anticipated
10 to be available for the project within the
11 time period contemplated for completion of
12 the project.

13 “(4) INCLUDED PROJECTS.—

14 “(A) PROJECTS UNDER THIS TITLE AND
15 CHAPTER 53 OF TITLE 49.—A transportation
16 improvement program developed under this sub-
17 section for a metropolitan area shall include a
18 description of the projects within the area that
19 are proposed for funding under chapter 1 of
20 this title and chapter 53 of title 49.

21 “(B) PROJECTS UNDER CHAPTER 2.—

22 “(i) REGIONALLY SIGNIFICANT.—
23 Each regionally significant project pro-
24 posed for funding under chapter 2 shall be

1 identified individually in the transportation
 2 improvement program.

3 “(ii) NONREGIONALLY SIGNIFI-
 4 CANT.—A description of each project pro-
 5 posed for funding under chapter 2 that is
 6 not determined to be regionally significant
 7 shall be contained in 1 line item or identi-
 8 fied individually in the transportation im-
 9 provement program.

10 “(5) OPPORTUNITY FOR PARTICIPATION.—Be-
 11 fore approving a transportation improvement pro-
 12 gram, a metropolitan planning organization, in co-
 13 operation with the State and any affected public
 14 transportation operator, shall provide an opportunity
 15 for participation by interested parties in the develop-
 16 ment of the transportation improvement program, in
 17 accordance with subsection (h)(4).

18 “(6) SELECTION OF PROJECTS.—

19 “(A) IN GENERAL.—Each tier I MPO and
 20 tier II MPO shall select projects carried out
 21 within the boundaries of the applicable metro-
 22 politan planning area from the transportation
 23 improvement program, in consultation with the
 24 relevant State and on concurrence of the af-
 25 fected facility owner, for funds apportioned to

1 the State under section 104(b)(2) and suballo-
2 cated to the metropolitan planning area under
3 section 133(d).

4 “(B) CMAQ PROJECTS.—Each tier I MPO
5 shall select projects carried out within the
6 boundaries of the applicable metropolitan plan-
7 ning area from the transportation improvement
8 program, in consultation with the relevant State
9 and on concurrence of the affected facility
10 owner, for funds apportioned to the State under
11 section 104(b)(4) and suballocated to the met-
12 ropolitan planning area under section 149(j).

13 “(C) MODIFICATIONS TO PROJECT PRI-
14 ORITY.—Notwithstanding any other provision of
15 law, approval by the Secretary shall not be re-
16 quired to carry out a project included in a
17 transportation improvement program in place of
18 another project in the transportation improve-
19 ment program.

20 “(7) PUBLICATION.—

21 “(A) IN GENERAL.—A transportation im-
22 provement program shall be published or other-
23 wise made readily available by the applicable
24 metropolitan planning organization for public

1 review in electronically accessible formats and
2 means, such as the Internet.

3 “(B) ANNUAL LIST OF PROJECTS.—An an-
4 nual list of projects, including investments in
5 pedestrian walkways, bicycle transportation fa-
6 cilities, and intermodal facilities that support
7 intercity transportation, for which Federal
8 funds have been obligated during the preceding
9 fiscal year shall be published or otherwise made
10 available by the cooperative effort of the State,
11 transit operator, and metropolitan planning or-
12 ganization in electronically accessible formats
13 and means, such as the Internet, in a manner
14 that is consistent with the categories identified
15 in the relevant transportation improvement pro-
16 gram.

17 “(k) PLANNING REQUIREMENTS FOR TIER II
18 MPOs.—

19 “(1) IN GENERAL.—The Secretary may provide
20 for the performance-based development of a metro-
21 politan transportation plan and transportation im-
22 provement program for the metropolitan planning
23 area of a tier II MPO, as the Secretary determines
24 to be appropriate, taking into account—

1 “(A) the complexity of transportation
2 needs in the area; and

3 “(B) the technical capacity of the metro-
4 politan planning organization.

5 “(2) EVALUATION OF PERFORMANCE-BASED
6 PLANNING.—In reviewing a tier II MPO under sub-
7 section (m), the Secretary shall take into consider-
8 ation the effectiveness of the tier II MPO in imple-
9 menting and maintaining a performance-based plan-
10 ning process that—

11 “(A) addresses the targets described in
12 subsection (h)(2); and

13 “(B) demonstrates progress on the
14 achievement of those targets.

15 “(l) CERTIFICATION.—

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

17 “(A) ensure that the metropolitan trans-
18 portation planning process of a metropolitan
19 planning organization is being carried out in ac-
20 cordance with applicable Federal law; and

21 “(B) subject to paragraph (2), certify, not
22 less frequently than once every 4 years, that the
23 requirements of subparagraph (A) are met with
24 respect to the metropolitan transportation plan-
25 ning process.

1 “(2) REQUIREMENTS FOR CERTIFICATION.—

2 The Secretary may make a certification under para-
3 graph (1)(B) if—

4 “(A) the metropolitan transportation plan-
5 ning process complies with the requirements of
6 this section and other applicable Federal law;
7 and

8 “(B) a transportation improvement pro-
9 gram for the metropolitan planning area has
10 been approved by the relevant metropolitan
11 planning organization and Governor.

12 “(3) DELEGATION OF AUTHORITY.—The Sec-
13 retary may—

14 “(A) delegate to the appropriate State
15 fact-finding authority regarding the certification
16 of a tier II MPO under this subsection; and

17 “(B) make the certification under para-
18 graph (1) in consultation with the State.

19 “(4) EFFECT OF FAILURE TO CERTIFY.—

20 “(A) WITHHOLDING OF PROJECT
21 FUNDS.—If a metropolitan transportation plan-
22 ning process of a metropolitan planning organi-
23 zation is not certified under paragraph (1), the
24 Secretary may withhold up to 20 percent of the
25 funds attributable to the metropolitan planning

1 area of the metropolitan planning organization
2 for projects funded under this title and chapter
3 53 of title 49.

4 “(B) RESTORATION OF WITHHELD
5 FUNDS.—Any funds withheld under subpara-
6 graph (A) shall be restored to the metropolitan
7 planning area on the date of certification of the
8 metropolitan transportation planning process by
9 the Secretary.

10 “(5) PUBLIC INVOLVEMENT.—In making a de-
11 termination regarding certification under this sub-
12 section, the Secretary shall provide for public in-
13 volvement appropriate to the metropolitan planning
14 area under review.

15 “(m) PERFORMANCE-BASED PLANNING PROCESSES
16 EVALUATION.—

17 “(1) IN GENERAL.—The Secretary shall estab-
18 lish criteria to evaluate the effectiveness of the per-
19 formance-based planning processes of metropolitan
20 planning organizations under this section, taking
21 into consideration the following:

22 “(A) The extent to which the metropolitan
23 planning organization has achieved, or is cur-
24 rently making substantial progress toward
25 achieving, the targets specified in subsection

1 (h)(2), taking into account whether the metro-
2 politan planning organization developed mean-
3 ingful performance targets.

4 “(B) The extent to which the metropolitan
5 planning organization has used proven best
6 practices that help ensure transportation invest-
7 ment that is efficient and cost-effective.

8 “(C) The extent to which the metropolitan
9 planning organization—

10 “(i) has developed an investment proc-
11 ess that relies on public input and aware-
12 ness to ensure that investments are trans-
13 parent and accountable; and

14 “(ii) provides regular reports allowing
15 the public to access the information being
16 collected in a format that allows the public
17 to meaningfully assess the performance of
18 the metropolitan planning organization.

19 “(2) REPORT.—

20 “(A) IN GENERAL.—Not later than 5 years
21 after the date of enactment of the MAP-21, the
22 Secretary shall submit to Congress a report
23 evaluating—

1 “(i) the overall effectiveness of per-
 2 formance-based planning as a tool for
 3 guiding transportation investments; and

4 “(ii) the effectiveness of the perform-
 5 ance-based planning process of each metro-
 6 politan planning organization under this
 7 section.

8 “(B) PUBLICATION.—The report under
 9 subparagraph (A) shall be published or other-
 10 wise made available in electronically accessible
 11 formats and means, including on the Internet.

12 “(n) ADDITIONAL REQUIREMENTS FOR CERTAIN
 13 NONATTAINMENT AREAS.—

14 “(1) IN GENERAL.—Notwithstanding any other
 15 provision of this title or chapter 53 of title 49, Fed-
 16 eral funds may not be advanced in any metropolitan
 17 planning area classified as a nonattainment area or
 18 maintenance area for any highway project that will
 19 result in a significant increase in the carrying capac-
 20 ity for single-occupant vehicles, unless the owner or
 21 operator of the project demonstrates that the project
 22 will achieve or make substantial progress toward
 23 achieving the targets described in subsection (h)(2).

24 “(2) APPLICABILITY.—This subsection applies
 25 to any nonattainment area or maintenance area

1 within the boundaries of a metropolitan planning
2 area, as determined under subsection (c).

3 “(o) EFFECT OF SECTION.—Nothing in this section
4 provides to any metropolitan planning organization the
5 authority to impose any legal requirement on any trans-
6 portation facility, provider, or project not subject to the
7 requirements of this title or chapter 53 of title 49.

8 “(p) FUNDING.—Funds apportioned under section
9 104(b)(6) of this title and set aside under section 5305(g)
10 of title 49 shall be available to carry out this section.

11 “(q) CONTINUATION OF CURRENT REVIEW PRAC-
12 TICE.—

13 “(1) IN GENERAL.—In consideration of the fac-
14 tors described in paragraph (2), any decision by the
15 Secretary concerning a metropolitan transportation
16 plan or transportation improvement program shall
17 not be considered to be a Federal action subject to
18 review under the National Environmental Policy Act
19 of 1969 (42 U.S.C. 4321 et seq.).

20 “(2) DESCRIPTION OF FACTORS.—The factors
21 referred to in paragraph (1) are that—

22 “(A) metropolitan transportation plans and
23 transportation improvement programs are sub-
24 ject to a reasonable opportunity for public com-
25 ment;

1 “(B) the projects included in metropolitan
2 transportation plans and transportation im-
3 provement programs are subject to review
4 under the National Environmental Policy Act of
5 1969 (42 U.S.C. 4321 et seq.); and

6 “(C) decisions by the Secretary concerning
7 metropolitan transportation plans and transpor-
8 tation improvement programs have not been re-
9 viewed under the National Environmental Pol-
10 icy Act of 1969 (42 U.S.C. 4321 et seq.) as of
11 January 1, 1997.

12 “(r) *SCHEDULE FOR IMPLEMENTATION.—The Sec-*
13 *retary shall issue guidance on a schedule for implementa-*
14 *tion of the changes made by this section, taking into consid-*
15 *eration the established planning update cycle for metropoli-*
16 *tan planning organizations. The Secretary shall not require*
17 *a metropolitan planning organization to deviate from its*
18 *established planning update cycle to implement changes*
19 *made by this section. Metropolitan planning organizations*
20 *shall reflect changes made to their transportation plan or*
21 *transportation improvement program updates by 2 years*
22 *after the date of issuance of guidance by the Secretary.”.*

1 **SEC. 1202. STATEWIDE AND NONMETROPOLITAN TRANS-**
 2 **PORTATION PLANNING.**

3 (a) IN GENERAL.—Section 135 of title 23, United
 4 States Code, is amended to read as follows:

5 **“§ 135. Statewide and nonmetropolitan transpor-**
 6 **tation planning**

7 “(a) STATEWIDE TRANSPORTATION PLANS AND
 8 STIPs.—

9 “(1) DEVELOPMENT.—

10 “(A) IN GENERAL.—To accomplish the
 11 policy objectives described in section 134(a),
 12 each State shall develop a statewide transpor-
 13 tation plan and a statewide transportation im-
 14 provement program for all areas of the State in
 15 accordance with this section.

16 “(B) INCORPORATION OF METROPOLITAN
 17 TRANSPORTATION PLANS AND TIPS.—Each
 18 State shall incorporate in the statewide trans-
 19 portation plan and statewide transportation im-
 20 provement program, without change or by ref-
 21 erence, the metropolitan transportation plans
 22 and transportation improvement programs, re-
 23 spectively, for each metropolitan planning area
 24 in the State.

25 “(C) NONMETROPOLITAN AREAS.—Each
 26 State shall ~~coordinate~~ *consult* with local officials

1 in small urbanized and nonurbanized areas of
2 the State in preparing the nonmetropolitan por-
3 tions of statewide transportation plans and
4 statewide transportation improvement pro-
5 grams.

6 “(2) CONTENTS.—The statewide transportation
7 plan and statewide transportation improvement pro-
8 gram developed for each State shall provide for the
9 development and integrated management and oper-
10 ation of transportation systems and facilities (includ-
11 ing accessible pedestrian walkways, bicycle transpor-
12 tation facilities, and intermodal facilities that sup-
13 port intercity transportation) that will function as—

14 “(A) an intermodal transportation system
15 for the State; and

16 “(B) an integral part of an intermodal
17 transportation system for the United States.

18 “(3) PROCESS.—The process for developing the
19 statewide transportation plan and statewide trans-
20 portation improvement program shall—

21 “(A) provide for consideration of all modes
22 of transportation; and

23 “(B) be continuing, cooperative, and com-
24 prehensive to the degree appropriate, based on

1 the complexity of the transportation needs to be
2 addressed.

3 ~~“(b) COORDINATION.—~~

4 ~~“(1) IN GENERAL.—Each State shall—~~

5 ~~“(A) coordinate planning carried out under~~
6 ~~this section with—~~

7 ~~“(i) the transportation planning ac-~~
8 ~~tivities carried out under section 134 for~~
9 ~~metropolitan areas of the State; and~~

10 ~~“(ii) statewide trade and economic de-~~
11 ~~velopment planning activities and related~~
12 ~~multistate planning efforts;~~

13 ~~“(B) coordinate planning carried out under~~
14 ~~this section with the transportation planning~~
15 ~~activities carried out by each nonmetropolitan~~
16 ~~planning organization in the State, as applica-~~
17 ~~ble; and~~

18 ~~“(C) develop the transportation portion of~~
19 ~~the State implementation plan as required by~~
20 ~~the Clean Air Act (42 U.S.C. 7401 et seq.).~~

21 ~~“(b) COORDINATION AND CONSULTATION.—~~

22 ~~“(1) IN GENERAL.—Each State shall—~~

23 ~~“(A) coordinate planning carried out under~~
24 ~~this section with—~~

1 “(i) the transportation planning ac-
 2 tivities carried out under section 134 for
 3 metropolitan areas of the State; and

4 “(ii) statewide trade and economic de-
 5 velopment planning activities and related
 6 multistate planning efforts;

7 “(B) coordinate planning carried out under
 8 this section with the transportation planning ac-
 9 tivities carried out by each nonmetropolitan
 10 planning organization in the State, as applica-
 11 ble;

12 “(C) consult on planning carried out under
 13 this section with the transportation planning ac-
 14 tivities carried out by each rural planning orga-
 15 nization in the State, as applicable; and

16 “(D) develop the transportation portion of
 17 the State implementation plan as required by
 18 the Clean Air Act (42 U.S.C. 7401 et seq.).

19 “(2) MULTISTATE AREAS.—

20 “(A) IN GENERAL.—The Secretary shall
 21 encourage each Governor with responsibility for
 22 a portion of a multistate metropolitan planning
 23 area and the appropriate metropolitan planning
 24 organizations to provide coordinated transpor-

1 tation planning for the entire metropolitan
2 area.

3 “(B) COORDINATION ALONG DESIGNATED
4 TRANSPORTATION CORRIDORS.—The Secretary
5 shall encourage each Governor with responsi-
6 bility for a portion of a multistate transpor-
7 tation corridor to provide coordinated transpor-
8 tation planning for the entire designated cor-
9 ridor.

10 “(C) INTERSTATE COMPACTS.—For pur-
11 poses of this section, any 2 or more States—

12 “(i) may enter into compacts, agree-
13 ments, or organizations not in conflict with
14 any Federal law for cooperative efforts and
15 mutual assistance in support of activities
16 authorized under this section, as the activi-
17 ties relate to interstate areas and localities
18 within the States;

19 “(ii) may establish such agencies
20 (joint or otherwise) as the States deter-
21 mine to be appropriate for ensuring the ef-
22 fectiveness of the agreements and com-
23 pacts; and

24 “(iii) are encouraged to enter into
25 such compacts, agreements, or organiza-

1 tions as are appropriate to develop plan-
2 ning documents in support of intercity or
3 multistate area projects, facilities, and
4 services, the relevant components of which
5 shall be reflected in statewide transpor-
6 tation improvement programs and state-
7 wide transportation plans.

8 “(D) RESERVATION OF RIGHTS.—The
9 right to alter, amend, or repeal any interstate
10 compact or agreement entered into under this
11 subsection is expressly reserved.

12 “(c) RELATIONSHIP WITH OTHER PLANNING OFFI-
13 CIALS.—

14 “(1) IN GENERAL.—The Secretary shall encour-
15 age each State to cooperate with Federal, tribal,
16 State, and local officers and entities responsible for
17 other types of planning activities that are affected
18 by transportation in the relevant area (including
19 planned growth, economic development, infrastruc-
20 ture services, housing, other public services, environ-
21 mental protection, airport operations, high-speed and
22 intercity passenger rail, freight rail, port access, and
23 freight movements), to the maximum extent prac-
24 ticable, to ensure that the statewide and nonmetro-
25 politan planning process, statewide transportation

1 plans, and statewide transportation improvement
2 programs are developed with due consideration for
3 other related planning activities in the State.

4 “(2) INCLUSION.—Cooperation under para-
5 graph (1) shall include the design and delivery of
6 transportation services within the State that are pro-
7 vided by—

8 “(A) recipients of assistance under sections
9 202, 203, and 204;

10 “(B) recipients of assistance under chapter
11 53 of title 49;

12 “(C) government agencies and nonprofit
13 organizations (including representatives of the
14 agencies and organizations) that receive Federal
15 assistance from a source other than the Depart-
16 ment of Transportation to provide non-
17 emergency transportation services; and

18 “(D) sponsors of regionally significant pro-
19 grams, projects, and services that are related to
20 transportation and receive assistance from any
21 public or private source.

22 “(d) SCOPE OF PLANNING PROCESS.—

23 “(1) IN GENERAL.—The statewide transpor-
24 tation planning process for a State under this sec-

1 tion shall provide for consideration of projects, strat-
2 egies, and services that will—

3 “(A) support the economic vitality of the
4 United States, the State, nonmetropolitan
5 areas, and metropolitan areas, especially by en-
6 abling global competitiveness, productivity, and
7 efficiency;

8 “(B) increase the safety of the transpor-
9 tation system for motorized and nonmotorized
10 users;

11 “(C) increase the security of the transpor-
12 tation system for motorized and nonmotorized
13 users;

14 “(D) increase the accessibility and mobility
15 of individuals and freight;

16 “(E) protect and enhance the environment,
17 promote energy conservation, improve the qual-
18 ity of life, and promote consistency between
19 transportation improvements and State and
20 local planned growth and economic development
21 patterns;

22 “(F) enhance the integration and
23 connectivity of the transportation system,
24 across and between modes, for individuals and
25 freight;

1 “(G) increase efficient system management
2 and operation; and

3 “(H) emphasize the preservation of the ex-
4 isting transportation system.

5 “(2) PERFORMANCE-BASED APPROACH.—

6 “(A) IN GENERAL.—The statewide trans-
7 portation planning process shall provide for the
8 establishment and use of a performance-based
9 approach to transportation decisionmaking to
10 support the national goals described in section
11 150(b).

12 “(B) PERFORMANCE TARGETS.—

13 “(i) IN GENERAL.—Each State shall
14 establish performance targets that address
15 the performance measures described in sec-
16 tions 119(f), 148(h), ~~149(k)~~, and 167(i) to
17 use in tracking attainment of critical out-
18 comes for the region of the State.

19 “(ii) COORDINATION.—Selection of
20 performance targets by a State shall be co-
21 ordinated with relevant metropolitan plan-
22 ning organizations to ensure consistency,
23 to the maximum extent practicable.

24 “(C) INTEGRATION OF OTHER PERFORM-
25 ANCE-BASED PLANS.—A State shall integrate

1 into the statewide transportation planning proc-
 2 ess, directly or by reference, the goals, objec-
 3 tives, performance measures, and targets de-
 4 scribed in this paragraph in other State plans
 5 and processes required as part of a perform-
 6 ance-based program, including plans such as—

7 “(i) the State National Highway Sys-
 8 tem asset management plan;

9 “(ii) the State strategic highway safe-
 10 ty plan; *and*

11 ~~“(iii) the congestion mitigation and~~
 12 ~~air quality performance plan; and~~

13 ~~“(iv)(iii)~~ the national freight strategic
 14 plan.

15 “(D) USE OF PERFORMANCE MEASURES
 16 AND TARGETS.—The performance measures
 17 and targets established under this paragraph
 18 shall be used, at a minimum, by a State as the
 19 basis for development of policies, programs, and
 20 investment priorities reflected in the statewide
 21 transportation plan and statewide transpor-
 22 tation improvement program.

23 “(3) FAILURE TO CONSIDER FACTORS.—The
 24 failure to take into consideration 1 or more of the
 25 factors specified in paragraphs (1) and (2) shall not

1 be subject to review by any court under this title,
2 chapter 53 of title 49, subchapter II of chapter 5 of
3 title 5, or chapter 7 of title 5 in any matter affecting
4 a statewide transportation plan, a statewide trans-
5 portation improvement program, a project or strat-
6 egy, or the certification of a planning process.

7 “(4) PARTICIPATION BY INTERESTED PAR-
8 TIES.—

9 “(A) IN GENERAL.—Each State shall pro-
10 vide to affected individuals, public agencies, and
11 other interested parties notice and a reasonable
12 opportunity to comment on the statewide trans-
13 portation plan and statewide transportation im-
14 provement program.

15 “(B) METHODS.—In carrying out subpara-
16 graph (A), the State shall, to the maximum ex-
17 tent practicable—

18 “(i) develop the statewide transpor-
19 tation plan and statewide transportation
20 improvement program in consultation with
21 interested parties, as appropriate, includ-
22 ing by the formation of advisory groups
23 representative of the State and interested
24 parties that participate in the development
25 of the statewide transportation plan and

1 statewide transportation improvement pro-
2 gram;

3 “(ii) hold any public meetings at
4 times and locations that are, as applica-
5 ble—

6 “(I) convenient; and

7 “(II) in compliance with the
8 Americans with Disabilities Act of
9 1990 (42 U.S.C. 12101 et seq.);

10 “(iii) employ visualization techniques
11 to describe statewide transportation plans
12 and statewide transportation improvement
13 programs; and

14 “(iv) make public information avail-
15 able in appropriate electronically accessible
16 formats and means, such as the Internet,
17 to afford reasonable opportunity for con-
18 sideration of public information under sub-
19 paragraph (A).

20 “(e) COORDINATION AND CONSULTATION.—

21 “(1) METROPOLITAN AREAS.—

22 “(A) IN GENERAL.—Each State shall de-
23 velop a statewide transportation plan and state-
24 wide transportation improvement program for
25 each metropolitan area in the State by incor-

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

1 in ~~coordination~~ *consultation* with affected nonmetro-
 2 politan local officials with responsibility for transpor-
 3 tation.

4 “(3) INDIAN TRIBAL AREAS.—With respect to
 5 each area of a State under the jurisdiction of an In-
 6 dian tribe, the statewide transportation plan and
 7 statewide transportation improvement program of
 8 the State shall be developed in consultation with—

9 “(A) the tribal government; and

10 “(B) the Secretary of the Interior.

11 “(4) FEDERAL LAND MANAGEMENT AGEN-
 12 CIES.—With respect to each area of a State under
 13 the jurisdiction of a Federal land management agen-
 14 cy, the statewide transportation plan and statewide
 15 transportation improvement program of the State
 16 shall be developed in consultation with the relevant
 17 Federal land management agency.

18 “(5) CONSULTATION, COMPARISON, AND CON-
 19 sideration.—

20 “(A) IN GENERAL.—A statewide transpor-
 21 tation plan shall be developed, as appropriate,
 22 in consultation with Federal, tribal, State, and
 23 local agencies responsible for land use manage-
 24 ment, natural resources, infrastructure permit-

ting, environmental protection, conservation,
and historic preservation.

“(B) COMPARISON AND CONSIDERATION.—
Consultation under subparagraph (A) shall in-
volve the comparison of statewide transpor-
tation 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 de-
velop a statewide transportation plan, the fore-
cast 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 trans-
portation plan shall include, at a minimum, for
the first 10-year period of the statewide trans-
portation plan, the identification of existing and
future transportation facilities that will function
as an integrated statewide transportation sys-
tem, giving emphasis to those facilities that

1 serve important national, statewide, and re-
2 gional transportation functions.

3 “(C) SUBSEQUENT PERIOD.—For the sec-
4 ond 10-year period of the statewide transpor-
5 tation plan (referred to in this subsection as the
6 ‘outer years period’), a statewide transportation
7 plan—

8 “(i) may include identification of fu-
9 ture transportation facilities; and

10 “(ii) shall describe the policies and
11 strategies that provide for the development
12 and implementation of the intermodal
13 transportation system of the State.

14 “(D) OTHER REQUIREMENTS.—A state-
15 wide transportation plan shall—

16 “(i) include, for the 20-year period
17 covered by the statewide transportation
18 plan, a description of—

19 “(I) the projected aggregate cost
20 of projects anticipated by a State to
21 be implemented; and

22 “(II) the revenues necessary to
23 support the projects;

1 “(ii) include, in such form as the Sec-
2 retary determines to be appropriate, a de-
3 scription of—

4 “(I) the existing transportation
5 infrastructure, including an identifica-
6 tion of highways, local streets and
7 roads, bicycle and pedestrian facilities,
8 transit facilities and services, com-
9 muter rail facilities and services, high-
10 speed and intercity passenger rail fa-
11 cilities and services, freight facilities
12 (including freight railroad and port
13 facilities), multimodal and intermodal
14 facilities, and intermodal connectors
15 that, evaluated in the aggregate, func-
16 tion as an integrated transportation
17 system;

18 “(II) the performance measures
19 and performance targets used in as-
20 sessing the existing and future per-
21 formance of the transportation system
22 described in subsection (d)(2);

23 “(III) the current and projected
24 future usage of the transportation
25 system, including, to the maximum

1 extent practicable, an identification of
2 existing or planned transportation
3 rights-of-way, corridors, facilities, and
4 related real properties;

5 “(IV) a system performance re-
6 port evaluating the existing and fu-
7 ture condition and performance of the
8 transportation system with respect to
9 the performance targets described in
10 subsection (d)(2) and updates to sub-
11 sequent system performance reports,
12 including—

13 “(aa) progress achieved by
14 the State in meeting performance
15 targets, as compared to system
16 performance recorded in previous
17 reports; and

18 “(bb) an accounting of the
19 performance by the State on out-
20 lay of obligated project funds and
21 delivery of projects that have
22 reached substantial completion,
23 in relation to the projects cur-
24 rently on the statewide transpor-
25 tation improvement program and

1 those projects that have been re-
2 moved from the previous state-
3 wide transportation improvement
4 program;

5 “(V) recommended strategies and
6 investments for improving system per-
7 formance over the planning horizon,
8 including transportation systems man-
9 agement and operations strategies,
10 maintenance strategies, demand man-
11 agement strategies, asset management
12 strategies, capacity and enhancement
13 investments, land use improvements,
14 intelligent transportation systems de-
15 ployment and technology adoption
16 strategies as determined by the pro-
17 jected support of targets described in
18 subsection (d)(2);

19 “(VI) recommended strategies
20 and investments to improve and inte-
21 grate disability-related access to
22 transportation infrastructure;

23 “(VII) investment priorities for
24 using projected available and proposed
25 revenues over the short- and long-

1 term stages of the planning horizon,
2 in accordance with the financial plan
3 required under paragraph (2);

4 “(VIII) a description of inter-
5 state compacts entered into in order
6 to promote coordinated transportation
7 planning in multistate areas, if appli-
8 cable;

9 “(IX) an optional illustrative list
10 of projects containing investments
11 that—

12 “(aa) are not included in the
13 statewide transportation plan;
14 but

15 “(bb) would be so included if
16 resources in addition to the re-
17 sources identified in the financial
18 plan under paragraph (2) were
19 available;

20 “(X) a discussion (developed in
21 consultation with Federal, State, and
22 tribal wildlife, land management, and
23 regulatory agencies) of types of poten-
24 tial environmental and stormwater
25 mitigation activities and potential

1 areas to carry out those activities, in-
 2 cluding activities that may have the
 3 greatest potential to restore and
 4 maintain the environmental functions
 5 affected by the statewide transpor-
 6 tation plan; and

7 “(XI) recommended strategies
 8 and investments, including those de-
 9 veloped by the State as part of inter-
 10 state compacts, agreements, or orga-
 11 nizations, that support intercity trans-
 12 portation; and

13 “(iii) be updated by the State not less
 14 frequently than once every 5 years.

15 “(2) FINANCIAL PLAN.—A financial plan re-
 16 ferred to in paragraph (1)(D)(ii)(VII) shall—

17 “(A) be prepared by each State to support
 18 the statewide transportation plan; and

19 “(B) contain a description of each of the
 20 following:

21 “(i) Projected resource requirements
 22 during the 20-year planning horizon for
 23 implementing projects, strategies, and
 24 services recommended in the statewide
 25 transportation plan, including existing and

1 projected system operating and mainte-
2 nance needs, proposed enhancement and
3 expansions to the system, projected avail-
4 able revenue from Federal, State, local,
5 and private sources, and innovative financ-
6 ing techniques to finance projects and pro-
7 grams.

8 “(ii) The projected difference between
9 costs and revenues, and strategies for se-
10 curing additional new revenue (such as by
11 capture of some of the economic value cre-
12 ated by any new investment).

13 “(iii) Estimates of future funds, to be
14 developed cooperatively by the State, any
15 public transportation agency, and relevant
16 metropolitan planning organizations, that
17 are reasonably expected to be available to
18 support the investment priorities rec-
19 ommended in the statewide transportation
20 plan.

21 “(iv) Each applicable project, only if
22 full funding can reasonably be anticipated
23 to be available for the project within the
24 time period contemplated for completion of
25 the project.

1 “(v) For the outer years period of the
2 statewide transportation plan, a descrip-
3 tion of the aggregate cost ranges or bands,
4 subject to the condition that any future
5 funding source shall be reasonably ex-
6 pected to be available to support the pro-
7 jected cost ranges or bands.

8 “(3) COORDINATION WITH CLEAN AIR ACT
9 AGENCIES.—For any nonmetropolitan area that is a
10 nonattainment area or maintenance area, the State
11 shall coordinate the development of the statewide
12 transportation plan with the process for development
13 of the transportation control measures of the State
14 implementation plan required by the Clean Air Act
15 (42 U.S.C. 7401 et seq.).

16 “(4) PUBLICATION.—A statewide transpor-
17 tation plan involving Federal and non-Federal par-
18 ticipation programs, projects, and strategies shall be
19 published or otherwise made readily available by the
20 State for public review, including (to the maximum
21 extent practicable) in electronically accessible for-
22 mats and means, such as the Internet, in such man-
23 ner as the Secretary shall require.

24 “(5) SELECTION OF PROJECTS FROM ILLUS-
25 TRATIVE LIST.—Notwithstanding paragraph (2), a

1 State shall not be required to select any project from
 2 the illustrative list of additional projects included in
 3 the statewide transportation plan under paragraph
 4 (1)(D)(ii)(IX).

5 “(6) *USE OF POLICY PLANS.*—*Notwithstanding*
 6 *any other provision of this section, a State that has*
 7 *in effect, as of the date of enactment of the MAP-21,*
 8 *a statewide transportation plan that follows a policy*
 9 *plan approach—*

10 “(A) *may, for 4 years after the date of en-*
 11 *actment of the MAP-21, continue to use a policy*
 12 *plan approach to the statewide transportation*
 13 *plan; and*

14 “(B) *shall be subject to the requirements of*
 15 *this subsection only to the extent that such re-*
 16 *quirements were applicable under this section (as*
 17 *in effect on the day before the date of enactment*
 18 *of the MAP-21).*

19 “(g) STATEWIDE TRANSPORTATION IMPROVEMENT
 20 PROGRAMS.—

21 “(1) DEVELOPMENT.—

22 “(A) IN GENERAL.—~~In cooperation~~ *con-*
 23 *sultation* with nonmetropolitan officials with re-
 24 sponsibility for transportation and affected pub-
 25 lic transportation operators, the State shall de-

1 develop a statewide transportation improvement
2 program for the State that—

3 “(i) includes projects consistent with
4 the statewide transportation plan;

5 “(ii) reflects the investment priorities
6 established in the statewide transportation
7 plan; and

8 “(iii) once implemented, makes sig-
9 nificant progress toward achieving the tar-
10 gets described in subsection (d)(2).

11 “(B) OPPORTUNITY FOR PARTICIPA-
12 TION.—In developing a statewide transportation
13 improvement program, the State, in cooperation
14 with affected public transportation operators,
15 shall provide an opportunity for participation by
16 interested parties in the development of the
17 statewide transportation improvement program,
18 in accordance with subsection (e).

19 “(C) OTHER REQUIREMENTS.—

20 “(i) IN GENERAL.—A statewide trans-
21 portation improvement program shall—

22 “(I) cover a period of not less
23 than 4 years; and

24 “(II) be updated not less fre-
25 quently than once every 4 years, or

1 more frequently, as the Governor de-
2 termines to be appropriate.

3 “(ii) INCORPORATION OF TIPS.—A
4 statewide transportation improvement pro-
5 gram shall incorporate any relevant trans-
6 portation improvement program developed
7 by a metropolitan planning organization
8 under section 134, without change.

9 “(iii) PROJECTS.—Each project in-
10 cluded in a statewide transportation im-
11 provement program shall be—

12 “(I) consistent with the statewide
13 transportation plan developed under
14 this section for the State;

15 “(II) identical to a project or
16 phase of a project described in a rel-
17 evant transportation improvement
18 program; and

19 “(III) for any project located in a
20 nonattainment area or maintenance
21 area, carried out in accordance with
22 the applicable State air quality imple-
23 mentation plan developed under the
24 Clean Air Act (42 U.S.C. 7401 et
25 seq.).

1 “(2) CONTENTS.—

2 “(A) PRIORITY LIST.—A statewide trans-
3 portation improvement program shall include a
4 priority list of proposed federally supported
5 projects and strategies, to be carried out during
6 the 4-year period beginning on the date of
7 adoption of the statewide transportation im-
8 provement program, and during each 4-year pe-
9 riod thereafter, using existing and reasonably
10 available revenues in accordance with the finan-
11 cial plan under paragraph (3).

12 “(B) DESCRIPTIONS.—Each project or
13 phase of a project included in a statewide trans-
14 portation improvement program shall include
15 sufficient descriptive material (such as type of
16 work, termini, length, estimated completion
17 date, and other similar factors) to identify—

18 “(i) the project or project phase; and

19 “(ii) the effect that the project or
20 project phase will have in addressing the
21 targets described in subsection (d)(2).

22 “(C) PERFORMANCE TARGET ACHIEVE-
23 MENT.—A statewide transportation improve-
24 ment program shall include, to the maximum
25 extent practicable, a discussion of the antici-

1 pated effect of the statewide transportation im-
 2 provement program toward achieving the per-
 3 formance targets established in the statewide
 4 transportation plan, linking investment prior-
 5 ities to those performance targets.

6 “(D) ILLUSTRATIVE LIST OF PROJECTS.—

7 An optional illustrative list of projects may be
 8 prepared containing additional investment pri-
 9 orities that—

10 “(i) are not included in the statewide
 11 transportation improvement program; but

12 “(ii) would be so included if resources
 13 in addition to the resources identified in
 14 the financial plan under paragraph (3)
 15 were available.

16 “(3) FINANCIAL PLAN.—A financial plan re-
 17 ferred to in paragraph (2)(A) shall—

18 “(A) be prepared by each State to support
 19 the statewide transportation improvement pro-
 20 gram; and

21 “(B) contain a description of each of the
 22 following:

23 “(i) Projected resource requirements
 24 for implementing projects, strategies, and
 25 services recommended in the statewide

1 transportation improvement program, in-
2 cluding existing and projected system oper-
3 ating and maintenance needs, proposed en-
4 hancement and expansions to the system,
5 projected available revenue from Federal,
6 State, local, and private sources, and inno-
7 vative financing techniques to finance
8 projects and programs.

9 “(ii) The projected difference between
10 costs and revenues, and strategies for se-
11 curing additional new revenue (such as by
12 capture of some of the economic value cre-
13 ated by any new investment).

14 “(iii) Estimates of future funds, to be
15 developed cooperatively by the State and
16 relevant metropolitan planning organiza-
17 tions and public transportation agencies,
18 that are reasonably expected to be avail-
19 able to support the investment priorities
20 recommended in the statewide transpor-
21 tation improvement program.

22 “(iv) Each applicable project, only if
23 full funding can reasonably be anticipated
24 to be available for the project within the

1 time period contemplated for completion of
2 the project.

3 “(4) INCLUDED PROJECTS.—

4 “(A) PROJECTS UNDER THIS TITLE AND
5 CHAPTER 53 OF TITLE 49.—A statewide trans-
6 portation improvement program developed
7 under this subsection for a State shall include
8 the projects within the State that are proposed
9 for funding under chapter 1 of this title and
10 chapter 53 of title 49.

11 “(B) PROJECTS UNDER CHAPTER 2.—

12 “(i) REGIONALLY SIGNIFICANT.—
13 Each regionally significant project pro-
14 posed for funding under chapter 2 shall be
15 identified individually in the statewide
16 transportation improvement program.

17 “(ii) NONREGIONALLY SIGNIFI-
18 CANT.—A description of each project pro-
19 posed for funding under chapter 2 that is
20 not determined to be regionally significant
21 shall be contained in 1 line item or identi-
22 fied individually in the statewide transpor-
23 tation improvement program.

24 “(5) PUBLICATION.—

1 “(A) IN GENERAL.—A statewide transpor-
2 tation improvement program shall be published
3 or otherwise made readily available by the State
4 for public review in electronically accessible for-
5 mats and means, such as the Internet.

6 “(B) ANNUAL LIST OF PROJECTS.—An an-
7 nual list of projects, including investments in
8 pedestrian walkways, bicycle transportation fa-
9 cilities, and intermodal facilities that support
10 intercity transportation, for which Federal
11 funds have been obligated during the preceding
12 fiscal year shall be published or otherwise made
13 available by the cooperative effort of the State,
14 transit operator, and relevant metropolitan
15 planning organizations in electronically acces-
16 sible formats and means, such as the Internet,
17 in a manner that is consistent with the cat-
18 egories identified in the relevant statewide
19 transportation improvement program.

20 “(6) PROJECT SELECTION FOR URBANIZED
21 AREAS WITH POPULATIONS OF FEWER THAN 200,000
22 NOT REPRESENTED BY DESIGNATED MPOS.—
23 Projects carried out in urbanized areas with popu-
24 lations of fewer than 200,000 individuals, and that
25 are not represented by designated metropolitan plan-

1 ning organizations, shall be selected, from the ap-
2 proved statewide transportation improvement pro-
3 gram (including projects carried out on the National
4 Highway System and other projects carried out
5 under this title or under sections 5310 and 5311 of
6 title 49) by the State, in cooperation with the af-
7 fected nonmetropolitan planning organization, if any
8 exists, and in consultation with the affected non-
9 metropolitan area local officials with responsibility
10 for transportation.

11 “(7) APPROVAL BY SECRETARY.—

12 “(A) IN GENERAL.—Not less frequently
13 than once every 4 years, a statewide transpor-
14 tation improvement program developed under
15 this subsection shall be reviewed and approved
16 by the Secretary, based on the current planning
17 finding of the Secretary under subparagraph
18 (B).

19 “(B) PLANNING FINDING.—The Secretary
20 shall make a planning finding referred to in
21 subparagraph (A) not less frequently than once
22 every 5 years regarding whether the transpor-
23 tation planning process through which statewide
24 transportation plans and statewide transpor-

1 tation improvement programs are developed is
2 consistent with this section and section 134.

3 “(8) MODIFICATIONS TO PROJECT PRIORITY.—

4 Notwithstanding any other provision of law, ap-
5 proval by the Secretary shall not be required to
6 carry out a project included in an approved state-
7 wide transportation improvement program in place
8 of another project in the statewide transportation
9 improvement program.

10 “(h) CERTIFICATION.—

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

12 “(A) ensure that the statewide transpor-
13 tation planning process of a State is being car-
14 ried out in accordance with applicable Federal
15 law; and

16 “(B) subject to paragraph (2), certify, not
17 less frequently than once every 5 years, that the
18 requirements of subparagraph (A) are met with
19 respect to the statewide transportation planning
20 process.

21 “(2) REQUIREMENTS FOR CERTIFICATION.—

22 The Secretary may make a certification under para-
23 graph (1)(B) if—

1 “(A) the statewide transportation planning
2 process complies with the requirements of this
3 section and other applicable Federal law; and

4 “(B) a statewide transportation improve-
5 ment program for the State has been approved
6 by the Governor of the State.

7 “(3) EFFECT OF FAILURE TO CERTIFY.—

8 “(A) WITHHOLDING OF PROJECT
9 FUNDS.—If a statewide transportation planning
10 process of a State is not certified under para-
11 graph (1), the Secretary may withhold up to 20
12 percent of the funds attributable to the State
13 for projects funded under this title and chapter
14 53 of title 49.

15 “(B) RESTORATION OF WITHHELD
16 FUNDS.—Any funds withheld under subpara-
17 graph (A) shall be restored to the State on the
18 date of certification of the statewide transpor-
19 tation planning process by the Secretary.

20 “(4) PUBLIC INVOLVEMENT.—In making a de-
21 termination regarding certification under this sub-
22 section, the Secretary shall provide for public in-
23 volvement appropriate to the State under review.

24 “(i) PERFORMANCE-BASED PLANNING PROCESSES
25 EVALUATION.—

1 “(1) IN GENERAL.—The Secretary shall estab-
2 lish criteria to evaluate the effectiveness of the per-
3 formance-based planning processes of States, taking
4 into consideration the following:

5 “(A) The extent to which the State has
6 achieved, or is currently making substantial
7 progress toward achieving, the targets described
8 in subsection (d)(2), taking into account wheth-
9 er the State developed meaningful performance
10 targets.

11 “(B) The extent to which the State has
12 used proven best practices that help ensure
13 transportation investment that is efficient and
14 cost-effective.

15 “(C) The extent to which the State—
16 “(i) has developed an investment proc-
17 ess that relies on public input and aware-
18 ness to ensure that investments are trans-
19 parent and accountable; and

20 “(ii) provides regular reports allowing
21 the public to access the information being
22 collected in a format that allows the public
23 to meaningfully assess the performance of
24 the State.

25 “(2) REPORT.—

1 “(A) IN GENERAL.—Not later than 5 years
2 after the date of enactment of the MAP-21, the
3 Secretary shall submit to Congress a report
4 evaluating—

5 “(i) the overall effectiveness of per-
6 formance-based planning as a tool for
7 guiding transportation investments; and

8 “(ii) the effectiveness of the perform-
9 ance-based planning process of each State.

10 “(B) PUBLICATION.—The report under
11 subparagraph (A) shall be published or other-
12 wise made available in electronically accessible
13 formats and means, including on the Internet.

14 “(j) FUNDING.—Funds apportioned under section
15 104(b)(6) of this title and set aside under section 5305(g)
16 of title 49 shall be available to carry out this section.

17 “(k) CONTINUATION OF CURRENT REVIEW PRAC-
18 TICE.—

19 “(1) IN GENERAL.—In consideration of the fac-
20 tors described in paragraph (2), any decision by the
21 Secretary concerning a statewide transportation plan
22 or statewide transportation improvement program
23 shall not be considered to be a Federal action sub-
24 ject to review under the National Environmental
25 Policy Act of 1969 (42 U.S.C. 4321 et seq.).

1 “(2) DESCRIPTION OF FACTORS.—The factors
2 referred to in paragraph (1) are that—

3 “(A) statewide transportation plans and
4 statewide transportation improvement programs
5 are subject to a reasonable opportunity for pub-
6 lic comment;

7 “(B) the projects included in statewide
8 transportation plans and statewide transpor-
9 tation improvement programs are subject to re-
10 view under the National Environmental Policy
11 Act of 1969 (42 U.S.C. 4321 et seq.); and

12 “(C) decisions by the Secretary concerning
13 statewide transportation plans and statewide
14 transportation improvement programs have not
15 been reviewed under the National Environ-
16 mental Policy Act of 1969 (42 U.S.C. 4321 et
17 seq.) as of January 1, 1997.

18 “(l) *SCHEDULE FOR IMPLEMENTATION.*—*The Sec-*
19 *retary shall issue guidance on a schedule for implementa-*
20 *tion of the changes made by this section, taking into consid-*
21 *eration the established planning update cycle for States.*
22 *The Secretary shall not require a State to deviate from its*
23 *established planning update cycle to implement changes*
24 *made by this section. States shall reflect changes made to*
25 *their transportation plan or transportation improvement*

1 *program updates by 2 years after the date of issuance of*
 2 *guidance by the Secretary.”.*

3 (b) CONFORMING AMENDMENT.—The analysis for
 4 chapter 1 of title 23, United States Code, is amended by
 5 striking the item relating to section 135 and inserting the
 6 following:

“135. Statewide and nonmetropolitan transportation planning.”.

7 **SEC. 1203. NATIONAL GOALS.**

8 (a) IN GENERAL.—Section 150 of title 23, United
 9 States Code, is amended to read as follows:

10 **“§ 150. National goals**

11 “(a) DECLARATION OF POLICY.—Performance man-
 12 agement will transform the Federal-aid highway program
 13 and provide a means to the most efficient investment of
 14 Federal transportation funds by refocusing on national
 15 transportation goals, increasing the accountability and
 16 transparency of the Federal-aid highway program, and im-
 17 proving project decisionmaking through performance-
 18 based planning and programming.

19 “(b) NATIONAL GOALS.—It is in the interest of the
 20 United States to focus the Federal-aid highway program
 21 on the following national goals:

22 “(1) SAFETY.—To achieve a significant reduc-
 23 tion in traffic fatalities and serious injuries on all
 24 public roads.

1 “(2) INFRASTRUCTURE CONDITION.—To main-
 2 tain the highway infrastructure asset system in a
 3 state of good repair.

4 “(3) SYSTEM RELIABILITY.—To improve the ef-
 5 ficiency of the surface transportation system.

6 “(4) FREIGHT MOVEMENT AND ECONOMIC VI-
 7 TALITY.—To improve the national freight network,
 8 strengthen the ability of rural communities to access
 9 national and international trade markets, and sup-
 10 port regional economic development.

11 “(5) ENVIRONMENTAL SUSTAINABILITY.—To
 12 enhance the performance of the transportation sys-
 13 tem while protecting and enhancing the natural envi-
 14 ronment.”.

15 (b) CONFORMING AMENDMENT.—The analysis for
 16 chapter 1 of title 23, United States Code, is amended by
 17 striking the item relating to section 150 and inserting the
 18 following:

“150. National goals.”.

19 **Subtitle C—Acceleration of Project** 20 **Delivery**

21 **SEC. 1301. PROJECT DELIVERY INITIATIVE.**

22 (a) DECLARATION OF POLICY.—It is the policy of the
 23 United States that—

24 (1) it is in the national interest for the Depart-
 25 ment, State departments of transportation, transit

1 agencies, and all other recipients of Federal trans-
2 portation funds—

3 (A) to accelerate project delivery and re-
4 duce costs; and

5 (B) to ensure that the planning, design,
6 engineering, construction, and financing of
7 transportation projects is done in an efficient
8 and effective manner, promoting accountability
9 for public investments and encouraging greater
10 private sector involvement in project financing
11 and delivery while enhancing safety and pro-
12 tecting the environment;

13 (2) delay in the delivery of transportation
14 projects increases project costs, harms the economy
15 of the United States, and impedes the travel of the
16 people of the United States and the shipment of
17 goods for the conduct of commerce; and

18 (3) the Secretary shall identify and promote the
19 deployment of innovation aimed at reducing the time
20 and money required to deliver transportation
21 projects while enhancing safety and protecting the
22 environment.

23 (b) ESTABLISHMENT OF INITIATIVE.—

1 (1) IN GENERAL.—To advance the policy de-
2 scribed in subsection (a), the Secretary shall carry
3 out a project delivery initiative under this section.

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

6 (A) to develop and advance the use of best
7 practices to accelerate project delivery and re-
8 duce costs across all modes of transportation
9 and expedite the deployment of technology and
10 innovation;

11 (B) to implement provisions of law de-
12 signed to accelerate project delivery; and

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

16 (3) ADVANCING THE USE OF BEST PRAC-
17 TICES.—

18 (A) IN GENERAL.—In carrying out the ini-
19 tiative under this section, the Secretary shall
20 identify and advance best practices to reduce
21 delivery time and project costs, from planning
22 through construction, for transportation
23 projects and programs of projects regardless of
24 mode and project size.

1 (B) ADMINISTRATION.—To advance the
2 use of best practices, the Secretary shall—

3 (i) engage interested parties, affected
4 communities, resource agencies, and other
5 stakeholders to gather information regard-
6 ing opportunities for accelerating project
7 delivery and reducing costs;

8 (ii) establish a clearinghouse for the
9 collection, documentation, and advance-
10 ment of existing and new innovative ap-
11 proaches and best practices;

12 (iii) disseminate information through
13 a variety of means to transportation stake-
14 holders on new innovative approaches and
15 best practices; and

16 (iv) provide technical assistance to as-
17 sist transportation stakeholders in the use
18 of flexibility authority to resolve project
19 delays and accelerate project delivery if
20 feasible.

21 (4) IMPLEMENTATION OF ACCELERATED
22 PROJECT DELIVERY.—The Secretary shall ensure
23 that the provisions of this subtitle designed to accel-
24 erate project delivery are fully implemented, includ-
25 ing—

1 (A) expanding eligibility of early acquisi-
2 tion of property prior to completion of environ-
3 mental review under the National Environ-
4 mental Policy Act of 1969 (42 U.S.C. 4321 et
5 seq.);

6 (B) allowing the use of the construction
7 manager or general contractor method of con-
8 tracting in the Federal-aid highway system; and

9 (C) establishing a demonstration program
10 to streamline the relocation process by permit-
11 ting a lump-sum payment for acquisition and
12 relocation if elected by the displaced occupant.

13 **SEC. 1302. CLARIFIED ELIGIBILITY FOR EARLY ACQUISI-**
14 **TION ACTIVITIES PRIOR TO COMPLETION OF**
15 **NEPA REVIEW.**

16 (a) IN GENERAL.—The acquisition of real property
17 in anticipation of a federally assisted or approved surface
18 transportation project that may use the property shall not
19 be prohibited prior to the completion of reviews of the sur-
20 face transportation project under the National Environ-
21 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if the
22 acquisition does not—

23 (1) have an adverse environmental effect; or

24 (2)(A) limit the choice of reasonable alter-
25 natives for the proposed project; or

1 (B) prevent the lead agency from making an
 2 impartial decision as to whether to select an alter-
 3 native that is being considered during the environ-
 4 mental review process.

5 (b) EARLY ACQUISITION OF REAL PROPERTY INTER-
 6 ESTS FOR HIGHWAYS.—Section 108 of title 23, United
 7 States Code, is amended—

8 (1) in the section heading by inserting “**inter-**
 9 **ests**” after “**real property**”;

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

12 (3) in subsection (c)—

13 (A) in the subsection heading by striking
 14 “RIGHTS-OF-WAY” and inserting “REAL PROP-
 15 ERTY INTERESTS”;

16 (B) in paragraph (1)—

17 (i) in the matter preceding subpara-
 18 graph (A) by inserting “at any time” after
 19 “may be used”; and

20 (ii) in subparagraph (A)—

21 (I) by striking “rights-of-way”
 22 the first place it appears and inserting
 23 “real property interests”; and

24 (II) by striking “, if the rights-
 25 of-way are subsequently incorporated

1 into a project eligible for surface
2 transportation program funds”; and

3 (C) by striking paragraph (2) and insert-
4 ing the following:

5 “(2) TERMS AND CONDITIONS.—

6 “(A) ACQUISITION OF REAL PROPERTY IN-
7 TERESTS.—

8 “(i) IN GENERAL.—Subject to the
9 other provisions of this section, prior to
10 completion of the review process for the
11 project required by the National Environ-
12 mental Policy Act of 1969 (42 U.S.C.
13 4321 et seq.), a public authority may carry
14 out acquisition of real property interests
15 that may be used for a project.

16 “(ii) REQUIREMENTS.—An acquisition
17 under clause (i) may be authorized by
18 project agreement and is eligible for Fed-
19 eral-aid reimbursement as a project ex-
20 pense if the Secretary finds that the acqui-
21 sition—

22 “(I) will not cause any significant
23 adverse environmental impact;

24 “(II) will not limit the choice of
25 reasonable alternatives for the project

1 or otherwise influence the decision of
2 the Secretary on any approval re-
3 quired for the project;

4 “(III) does not prevent the lead
5 agency from making an impartial de-
6 cision as to whether to accept an al-
7 ternative that is being considered in
8 the environmental review process;

9 “(IV) is consistent with the State
10 transportation planning process under
11 section 135;

12 “(V) complies with other applica-
13 ble Federal laws (including regula-
14 tions);

15 “(VI) will be acquired through
16 negotiation, without the threat of con-
17 demnation; and

18 “(VII) will not result in a reduc-
19 tion or elimination of benefits or as-
20 sistance to a displaced person re-
21 quired by the Uniform Relocation As-
22 sistance and Real Property Acquisi-
23 tion Policies Act of 1970 (42 U.S.C.
24 4601 et seq.) and title VI of the Civil

1 Rights Act of 1964 (42 U.S.C. 2000d
2 et seq.).

3 “(B) DEVELOPMENT.—Real property in-
4 terests acquired under this subsection may not
5 be developed in anticipation of a project until
6 all required environmental reviews for the
7 project have been completed.

8 “(C) REIMBURSEMENT.—If Federal-aid re-
9 imbursement is made for real property interests
10 acquired early under this section and the real
11 property interests are not subsequently incor-
12 porated into a project eligible for surface trans-
13 portation funds within the time allowed by sub-
14 section (a)(2), the Secretary shall offset the
15 amount reimbursed against funds apportioned
16 to the State.

17 “(D) OTHER CONDITIONS.—The Secretary
18 may establish such other conditions or restric-
19 tions on acquisitions as the Secretary deter-
20 mines to be appropriate.”.

21 **SEC. 1303. EFFICIENCIES IN CONTRACTING.**

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

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

3 “(A) PROCEDURE.—

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

9 “(ii) PRECONSTRUCTION PHASE.—In
10 the preconstruction phase of a contract
11 under this subparagraph, the construction
12 manager shall provide the contracting
13 agency with advice relating to scheduling,
14 work sequencing, cost engineering,
15 constructability, cost estimating, and risk
16 identification.

17 “(iii) AGREEMENT TO PRICE.—

18 “(I) IN GENERAL.—Prior to the
19 start of the second phase of a contract
20 under this subparagraph, the owner
21 and the construction manager may
22 agree to a price for the construction
23 of the project or a portion of the
24 project.

1 “(II) RESULT.—If an agreement
2 is reached, the construction manager
3 shall become the general contractor
4 for the construction of the project at
5 the negotiated schedule and price.

6 “(B) SELECTION.—A contract shall be
7 awarded to a construction manager or general
8 contractor under this paragraph using a com-
9 petitive selection process under which the con-
10 tract is awarded on the basis of—

11 “(i) qualifications;

12 “(ii) experience;

13 “(iii) best value; or

14 “(iv) any other combination of factors
15 considered appropriate by the contracting
16 agency.

17 “(C) TIMING.—

18 “(i) IN GENERAL.—Prior to the com-
19 pletion of the environmental review process
20 required under section 102 of the National
21 Environmental Policy Act of 1969 (42
22 U.S.C. 4332), a contracting agency may
23 issue requests for proposals, proceed with
24 the award of the first phase of construc-
25 tion manager or general contractor con-

1 tract, and issue notices to proceed with
2 preliminary design, to the extent that those
3 actions do not limit any reasonable range
4 of alternatives.

5 “(ii) NEPA PROCESS.—

6 “(I) IN GENERAL.—A con-
7 tracting agency shall not proceed with
8 the award of the second phase, and
9 shall not proceed, or permit any con-
10 sultant or contractor to proceed, with
11 final design or construction until com-
12 pletion of the environmental review
13 process required under section 102 of
14 the National Environmental Policy
15 Act of 1969 (42 U.S.C. 4332).

16 “(II) REQUIREMENT.—The Sec-
17 retary shall require that a contract in-
18 clude appropriate provisions to ensure
19 achievement of the objectives of sec-
20 tion 102 of the National Environ-
21 mental Policy Act of 1969 (42 U.S.C.
22 4332) and compliance with other ap-
23 plicable Federal laws and regulations
24 occurs.

1 “(iii) SECRETARIAL APPROVAL.—

2 Prior to authorizing construction activities,
3 the Secretary shall approve—

4 “(I) the estimate of the con-
5 tracting agency for the entire project;
6 and

7 “(II) any price agreement with
8 the general contractor for the project
9 or a portion of the project.

10 “(iv) TERMINATION PROVISION.—The
11 Secretary shall require a contract to in-
12 clude an appropriate termination provision
13 in the event that a no-build alternative is
14 selected.”.

15 (b) REGULATIONS.—The Secretary shall promulgate
16 such regulations as are necessary to carry out the amend-
17 ment made by subsection (a).

18 (c) EFFECT ON EXPERIMENTAL PROGRAM.—Nothing
19 in this section or the amendment made by this section af-
20 fects the authority to carry out, or any project carried out
21 under, any experimental program concerning construction
22 manager risk that is being carried out by the Secretary
23 as of the date of enactment of this Act.

24 **SEC. 1304. INNOVATIVE PROJECT DELIVERY METHODS.**

25 (a) DECLARATION OF POLICY.—

1 (1) IN GENERAL.—Congress declares that it is
2 in the national interest to promote the use of inno-
3 vative technologies and practices that increase the
4 efficiency of construction of, improve the safety of,
5 and extend the service life of highways and bridges.

6 (2) INCLUSIONS.—The innovative technologies
7 and practices described in paragraph (1) include
8 state-of-the-art intelligent transportation system
9 technologies, elevated performance standards, and
10 new highway construction business practices that
11 improve highway safety and quality, accelerate
12 project delivery, and reduce congestion related to
13 highway construction.

14 (b) FEDERAL SHARE.—Section 120(c) of title 23,
15 United States Code, is amended by adding at the end the
16 following:

17 “(3) INNOVATIVE PROJECT DELIVERY.—

18 “(A) IN GENERAL.—Except as provided in
19 subparagraph (C), the Federal share payable on
20 account of a project or activity carried out with
21 funds apportioned under paragraph (1), (2), or
22 (5) of section 104(b) may, at the discretion of
23 the State, be up to 100 percent for any such
24 project, program, or activity that the Secretary
25 determines—

1 “(i) contains innovative project deliv-
2 ery methods that improve work zone safety
3 for motorists or workers and the quality of
4 the facility;

5 “(ii) contains innovative technologies,
6 manufacturing processes, financing, or
7 contracting methods that improve the qual-
8 ity, extend the service life, or decrease the
9 long-term costs of maintaining highways
10 and bridges;

11 “(iii) accelerates project delivery while
12 complying with other applicable Federal
13 laws (including regulations) and not caus-
14 ing any significant adverse environmental
15 impact; or

16 “(iv) reduces congestion related to
17 highway construction.

18 “(B) EXAMPLES.—Projects, programs, and
19 activities described in subparagraph (A) may
20 include the use of—

21 “(i) prefabricated bridge elements and
22 systems and other technologies to reduce
23 bridge construction time;

24 “(ii) innovative construction equip-
25 ment, materials, or techniques, including

1 the use of in-place recycling technology
2 and digital 3-dimensional modeling tech-
3 nologies;

4 “(iii) innovative contracting methods,
5 including the design-build and the con-
6 struction manager-general contractor con-
7 tracting methods;

8 “(iv) intelligent compaction equip-
9 ment; or

10 “(v) contractual provisions that offer
11 a contractor an incentive payment for early
12 completion of the project, program, or ac-
13 tivity, subject to the condition that the in-
14 centives are accounted for in the financial
15 plan of the project, when applicable.

16 “(C) LIMITATIONS.—

17 “(i) IN GENERAL.—In each fiscal
18 year, a State may use the authority under
19 subparagraph (A) for up to 10 percent of
20 the combined apportionments of the State
21 under paragraphs (1), (2), and (5) of sec-
22 tion 104(b).

23 “(ii) FEDERAL SHARE INCREASE.—
24 The Federal share payable on account of a
25 project or activity described in subpara-

1 graph (A) may be increased by up to 5
2 percent of the total project cost.”.

3 **SEC. 1305. ASSISTANCE TO AFFECTED STATE AND FEDERAL**
4 **AGENCIES.**

5 Section 139(j) of title 23, United States Code, is
6 amended by adding at the end the following:

7 “(6) MEMORANDUM OF UNDERSTANDING.—
8 Prior to providing funds approved by the Secretary
9 for dedicated staffing at an affected Federal agency
10 under paragraphs (1) and (2), the affected Federal
11 agency and the State agency shall enter into a
12 memorandum of understanding that establishes the
13 projects and priorities to be addressed by the use of
14 the funds.”.

15 **SEC. 1306. APPLICATION OF CATEGORICAL EXCLUSIONS**
16 **FOR MULTIMODAL PROJECTS.**

17 (a) IN GENERAL.—Section 304 of title 49, United
18 States Code, is amended to read as follows:

19 **“§ 304. Application of categorical exclusions for**
20 **multimodal projects**

21 “(a) DEFINITIONS.—In this section:

22 “(1) COOPERATING AUTHORITY.—The term ‘co-
23 operating authority’ means a Department of Trans-
24 portation operating authority that is not the lead au-
25 thority.

1 “(2) LEAD AUTHORITY.—The term ‘lead au-
 2 thority’ means a Department of Transportation op-
 3 erating administration or secretarial office that—

4 “(A) is the lead authority over a proposed
 5 multimodal project; and

6 “(B) has determined that the components
 7 of the project that fall under the modal exper-
 8 tise of the lead authority—

9 “(i) satisfy the conditions for a cat-
 10 egorical exclusion under the National Envi-
 11 ronmental Policy Act of 1969 (42 U.S.C.
 12 4321 et seq.) implementing regulations or
 13 procedures of the lead authority; and

14 “(ii) do not require the preparation of
 15 an environmental assessment or an envi-
 16 ronmental impact statement under that
 17 Act.

18 “(3) MULTIMODAL PROJECT.—The term
 19 ‘multimodal project’ has the meaning given the term
 20 in section 139(a) of title 23.

21 “(b) EXERCISE OF AUTHORITIES.—The authorities
 22 granted in this section may be exercised for a multimodal
 23 project, class of projects, or program of projects that are
 24 carried out under this title.

1 “(c) APPLICATION OF CATEGORICAL EXCLUSIONS
 2 FOR MULTIMODAL PROJECTS.—When considering the en-
 3 vironmental impacts of a proposed multimodal project, a
 4 lead authority may apply a categorical exclusion des-
 5 ignated under the implementing regulations or procedures
 6 of a cooperating authority for other components of the
 7 project, on the conditions that—

8 “(1) the multimodal project is funded under 1
 9 grant agreement administered by the lead authority;

10 “(2) the multimodal project has components
 11 that require the expertise of a cooperating authority
 12 to assess the environmental impacts of the compo-
 13 nents;

14 “(3) the component of the project to be covered
 15 by the categorical exclusion of the cooperating au-
 16 thority has independent utility;

17 “(4) the cooperating authority, in consultation
 18 with the lead authority, follows National Environ-
 19 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.)
 20 implementing regulations or procedures and deter-
 21 mines that a categorical exclusion under that Act
 22 applies to the components; and

23 “(5) the lead authority has determined that—

24 “(A) the project, using the categorical ex-
 25 clusions of the lead and cooperating authorities,

1 does not individually or cumulatively have a sig-
2 nificant impact on the environment; and

3 “(B) extraordinary circumstances do not
4 exist that merit further analysis and docu-
5 mentation in an environmental impact state-
6 ment or environmental assessment required
7 under the National Environmental Policy Act of
8 1969 (42 U.S.C. 4321 et seq.).

9 “(d) MODAL COOPERATION.—

10 “(1) IN GENERAL.—A cooperating authority
11 shall provide modal expertise to a lead authority
12 with administrative authority over a multimodal
13 project on such aspects of the project in which the
14 cooperating authority has expertise.

15 “(2) USE OF CATEGORICAL EXCLUSION.—In a
16 case described in paragraph (1), the 1 or more cat-
17 egorical exclusions of a cooperating authority may be
18 applied by the lead authority once the cooperating
19 authority reviews the project on behalf of the lead
20 authority and determines the project satisfies the
21 conditions for a categorical exclusion under the Na-
22 tional Environmental Policy Act of 1969 (42 U.S.C.
23 4321 et seq.) implementing regulations or proce-
24 dures of the cooperating authority and this sec-
25 tion.”.

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

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

4 **SEC. 1307. STATE ASSUMPTION OF RESPONSIBILITIES FOR**
 5 **CATEGORICAL EXCLUSIONS.**

6 Section 326 of title 23, United States Code, is
 7 amended—

8 (1) in subsection (c) by striking paragraph (3)
 9 and inserting the following:

10 “(3) SOVEREIGN IMMUNITY.—By executing an
 11 agreement with the Secretary and assuming the re-
 12 sponsibilities of the Secretary under this section, the
 13 State waives the sovereign immunity of the State
 14 under the 11th Amendment of the Constitution from
 15 suit in Federal court and expressly consents to ac-
 16 cept the jurisdiction of the Federal courts with re-
 17 spect to any action relating to the compliance, dis-
 18 charge, and enforcement of any responsibility of the
 19 Secretary that the State assumes.”;

20 (2)(1) by striking subsection (d) and inserting
 21 the following:

22 “(d) TERMINATION.—

23 “(1) TERMINATION BY THE SECRETARY.—The
 24 Secretary may terminate any assumption of respon-
 25 sibility under a memorandum of understanding on a

1 determination that the State is not adequately car-
 2 rying out the responsibilities assigned to the State.

3 “(2) TERMINATION BY THE STATE.—The State
 4 may terminate the participation of the State in the
 5 program at any time by providing to the Secretary
 6 a notice by not later than the date that is 90 days
 7 before the date of termination, and subject to such
 8 terms and conditions as the Secretary may pro-
 9 vide.”; and

10 ~~(2)~~(2) by adding at the end the following:

11 “(f) LEGAL FEES.—A State assuming the respon-
 12 sibilities of the Secretary under this section for a specific
 13 project may use funds apportioned to the State under sec-
 14 tion 104(b)(2) for attorneys fees directly attributable to
 15 eligible activities associated with the project.”.

16 **SEC. 1308. SURFACE TRANSPORTATION PROJECT DELIV-**
 17 **ERY PROGRAM.**

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

20 (1) in the section heading by striking “**PILOT**”;

21 (2) in subsection (a)—

22 (A) in paragraph (1) by striking “pilot”;

23 and

24 (B) in paragraph (2)—

(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 con-
formity determination required under
section 176 of the Clean Air Act (42
U.S.C. 7506).”; and

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

~~“(F) SOVEREIGN IMMUNITY.—By exe-
cuting an agreement with the Secretary and as-
suming the responsibilities of the Secretary
under this section, the State waives the sov-
ereign 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 re-
spect 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~~

1 section for a specific project may use funds ap-
 2 portioned to the State under section 104(b)(2)
 3 for attorneys fees directly attributable to eligi-
 4 ble activities associated with the project.”;

5 (3) in subsection (b)—

6 (A) by striking paragraph (1);

7 (B) by redesignating paragraphs (2)
 8 through (5) as paragraphs (1) through (4), re-
 9 spectively; and

10 (C) in subparagraph (A) of paragraph (3)
 11 (as so redesignated) by striking “(2)” and in-
 12 serting “(1)”;

13 (4) in subsection (c)—

14 (A) in paragraph (3)(D) by striking the
 15 period at the end and inserting a semicolon;
 16 and

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

18 “(4) require the State to provide to the Sec-
 19 retary any information the Secretary considers nec-
 20 essary to ensure that the State is adequately car-
 21 rying out the responsibilities assigned to the State;

22 “(5) require the Secretary—

23 “(A) after a period of 5 years, to evaluate
 24 the ability of the State to carry out the respon-
 25 sibility assumed under this section;

1 “(B) if the Secretary determines that the
2 State is not ready to effectively carry out the
3 responsibilities the State has assumed, to re-
4 evaluate the readiness of the State every 3
5 years, or at such other frequency as the Sec-
6 retary considers appropriate, after the initial 5-
7 year evaluation, until the State is ready to as-
8 sume the responsibilities on a permanent basis;
9 and

10 “(C) once the Secretary determines that
11 the State is ready to permanently assume the
12 responsibilities of the Secretary, not to require
13 any further evaluations; and

14 “(6) require the State to provide the Secretary
15 with any information, including regular written re-
16 ports, as the Secretary may require in conducting
17 evaluations under paragraph (5).”;

18 (5) by striking subsection (g);

19 (6) by redesignating subsections (h) and (i) as
20 subsections (g) and (h), respectively; and

21 (7) in subsection (h) (as so redesignated)—

22 (A) by striking paragraph (1);

23 (B) by redesignating paragraph (2) as
24 paragraph (1); and

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

3 “(2) TERMINATION BY THE STATE.—The State
4 may terminate the participation of the State in the
5 program at any time by providing to the Secretary
6 a notice by not later than the date that is 90 days
7 before the date of termination, and subject to such
8 terms and conditions as the Secretary may pro-
9 vide.”.

10 (b) CONFORMING AMENDMENT.—The item relating
11 to section 327 in the analysis of title 23, United States
12 Code, is amended to read as follows:

“327. Surface transportation project delivery program.”.

13 **SEC. 1309. CATEGORICAL EXCLUSION FOR PROJECTS WITH-**
14 **IN THE RIGHT-OF-WAY.**

15 (a) IN GENERAL.—Not later than 30 days after the
16 date of enactment of this Act, the Secretary shall publish
17 a notice of proposed rulemaking for a categorical exclusion
18 that meets the definitions (as in effect on that date) of
19 section 1508.4 of title 40, Code of Federal Regulations,
20 and section 771.117 of title 23, Code of Federal Regula-
21 tions, for a project (as defined in section 101(a) of title
22 23, United States Code)—

23 (1) that is located solely within the right-of-way
24 of an existing highway, such as new turn lanes and
25 bus pull-offs;

(2) that does not include the addition of a through lane or new interchange; and

3 (3) for which the project sponsor demonstrates
4 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).

16 SEC. 1310. PROGRAMMATIC AGREEMENTS AND ADDI-
17 TIONAL CATEGORICAL EXCLUSIONS.

18 (a) IN GENERAL.—Not later than 60 days after the
19 date of enactment of this Act, the Secretary shall—

(1) survey the use by the Department of Transportation of categorical exclusions in transportation projects since 2005;

23 (2) publish a review of the survey that includes
24 a description of—

1 (A) the types of actions categorically ex-
2 cluded; and

3 (B) any requests previously received by the
4 Secretary for new categorical exclusions; and

5 (3) solicit requests from State departments of
6 transportation, transit authorities, metropolitan
7 planning organizations, or other government agen-
8 cies for new categorical exclusions.

9 (b) NEW CATEGORICAL EXCLUSIONS.—Not later
10 than 120 days after the date of enactment of this Act,
11 the Secretary shall publish a notice of proposed rule-
12 making to propose new categorical exclusions received by
13 the Secretary under subsection (a), to the extent that the
14 categorical exclusions meet the criteria for a categorical
15 exclusion under section 1508.4 of title 40, Code of Federal
16 Regulations and section 771.117(a) of title 23, Code of
17 Federal Regulations (as those regulations are in effect on
18 the date of the notice).

19 (c) ADDITIONAL ACTIONS.—The Secretary shall issue
20 a proposed rulemaking to move the following types of ac-
21 tions from subsection (d) of section 771.117 of title 23,
22 Code of Federal Regulations (as in effect on the date of
23 enactment of this Act), to subsection (c) of that section,
24 to the extent that such movement complies with the cri-
25 teria for a categorical exclusion under section 1508.4 of

1 title 40, Code of Federal Regulations (as in effect on the
2 date of enactment of this Act):

3 (1) Modernization of a highway by resurfacing,
4 restoration, rehabilitation, reconstruction, adding
5 shoulders, or adding auxiliary lanes (including park-
6 ing, weaving, turning, and climbing).

7 (2) Highway safety or traffic operations im-
8 provement projects, including the installation of
9 ramp metering control devices and lighting.

10 (3) Bridge rehabilitation, reconstruction, or re-
11 placement or the construction of grade separation to
12 replace existing at-grade railroad crossings.

13 (d) PROGRAMMATIC AGREEMENTS.—

14 (1) IN GENERAL.—The Secretary shall seek op-
15 portunities to enter into programmatic agreements
16 with the States that establish efficient administra-
17 tive procedures for carrying out environmental and
18 other required project reviews.

19 (2) INCLUSIONS.—Programmatic agreements
20 authorized under paragraph (1) may include agree-
21 ments that allow a State to determine on behalf of
22 the Federal Highway Administration whether a
23 project is categorically excluded from the prepara-
24 tion of an environmental assessment or environ-
25 mental impact statement under the National Envi-

1 ronmental Policy Act of 1969 (42 U.S.C. 4321 et
2 seq.).

3 (3) DETERMINATIONS.—An agreement de-
4 scribed in paragraph (2) may include determinations
5 by the Secretary of the types of projects categori-
6 cally excluded (consistent with section 1508.4 of title
7 40, Code of Federal Regulations) in the State in ad-
8 dition to the types listed in subsections (c) and (d)
9 of section 771.117 of title 23, Code of Federal Reg-
10 ulations (as in effect on the date of enactment of
11 this Act).

12 **SEC. 1311. ACCELERATED DECISIONMAKING IN ENVIRON-**
13 **MENTAL REVIEWS.**

14 (a) IN GENERAL.—When preparing a final environ-
15 mental impact statement under the National Environ-
16 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.), if
17 the lead agency makes changes in response to comments
18 that are minor and are confined to factual corrections or
19 explanations of why the comments do not warrant further
20 agency response, the lead agency may write on errata
21 sheets attached to the statement instead of rewriting the
22 draft statement, on the condition that the errata sheets—
23 (1) cite the sources, authorities, or reasons that
24 support the position of the agency; and

1 (2) if appropriate, indicate the circumstances
2 that would trigger agency reappraisal or further re-
3 sponse.

4 (b) INCORPORATION.—To the maximum extent prac-
5 ticable, the lead agency shall expeditiously develop a single
6 document that consists of a final environmental impact
7 statement and a record of decision unless—

8 (1) the final environmental impact statement
9 makes substantial changes to the proposed action
10 that are relevant to environmental or safety con-
11 cerns; or

12 (2) there are significant new circumstances or
13 information relevant to environmental concerns and
14 that bear on the proposed action or the impacts of
15 the proposed action.

16 **SEC. 1312. MEMORANDA OF AGENCY AGREEMENTS FOR**
17 **EARLY COORDINATION.**

18 (a) IN GENERAL.—It is the sense of Congress that—

19 (1) the Secretary and other Federal agencies
20 with relevant jurisdiction in the environmental re-
21 view process should cooperate with each other and
22 other agencies on environmental review and project
23 delivery activities at the earliest practicable time to
24 avoid delays and duplication of effort later in the
25 process, head off potential conflicts, and ensure that

1 planning and project development decisions reflect
2 environmental values; and

3 (2) such cooperation should include the develop-
4 ment of policies and the designation of staff that ad-
5 vise planning agencies or project sponsors of studies
6 or other information foreseeably required for later
7 Federal action and early consultation with appro-
8 priate State and local agencies and Indian tribes.

9 (b) TECHNICAL ASSISTANCE.—If requested at any
10 time by a State or local planning agency, the Secretary
11 and other Federal agencies with relevant jurisdiction in
12 the environmental review process, shall, to the extent prac-
13 ticable and appropriate, as determined by the agencies,
14 provide technical assistance to the State or local planning
15 agency on accomplishing the early coordination activities
16 described in subsection (d).

17 (c) MEMORANDUM OF AGENCY AGREEMENT.—If re-
18 quested at any time by a State or local planning agency,
19 the lead agency, in consultation with other Federal agen-
20 cies with relevant jurisdiction in the environmental review
21 process, may establish memoranda of agreement with the
22 project sponsor, State, and local governments and other
23 appropriate entities to accomplish the early coordination
24 activities described in subsection (d).

1 (d) EARLY COORDINATION ACTIVITIES.—Early co-
2 ordination activities shall include, to the maximum extent
3 practicable, the following:

4 (1) Technical assistance on identifying potential
5 impacts and mitigation issues in an integrated fash-
6 ion.

7 (2) The potential appropriateness of using plan-
8 ning products and decisions in later environmental
9 reviews.

10 (3) The identification and elimination from de-
11 tailed study in the environmental review process of
12 the issues that are not significant or that have been
13 covered by prior environmental reviews.

14 (4) The identification of other environmental
15 review and consultation requirements so that the
16 lead and cooperating agencies may prepare, as ap-
17 propriate, other required analyses and studies con-
18 currently with planning activities.

19 (5) The identification by agencies with jurisdic-
20 tion over any permits related to the project of any
21 and all relevant information that will reasonably be
22 required for the project.

23 (6) The reduction of duplication between re-
24 quirements under the National Environmental Policy
25 Act of 1969 (42 U.S.C. 4321 et seq.) and State and

1 local planning and environmental review require-
 2 ments, unless the agencies are specifically barred
 3 from doing so by applicable law.

4 (7) Timelines for the completion of agency ac-
 5 tions during the planning and environmental review
 6 processes.

7 (8) Other appropriate factors.

8 **SEC. 1313. ACCELERATED DECISIONMAKING.**

9 Section 139(h) of title 23, United States Code, is
 10 amended by striking paragraph (4) and inserting the fol-
 11 lowing:

12 “(4) INTERIM DECISION ON ACHIEVING ACCEL-
 13 ERATED DECISIONMAKING.—

14 “(A) IN GENERAL.—Not later than 30
 15 days after the close of the public comment pe-
 16 riod on a draft environmental impact statement,
 17 the Secretary may convene a meeting with the
 18 project sponsor, lead agency, resource agencies,
 19 and any relevant State agencies to ensure that
 20 all parties are on schedule to meet deadlines for
 21 decisions to be made regarding the project.

22 “(B) DEADLINES.—The deadlines referred
 23 to in subparagraph (A) shall be those estab-
 24 lished under subsection (g), or any other dead-
 25 lines established by the lead agency, in con-

1 sultation with the project sponsor and other rel-
2 evant agencies.

3 “(C) FAILURE TO ASSURE.—If the rel-
4 evant agencies cannot provide reasonable assur-
5 ances that the deadlines described in subpara-
6 graph (B) will be met, the Secretary may ini-
7 tiate the issue resolution and referral process
8 described under paragraph (5) and before the
9 completion of the record of decision.

10 “(5) ACCELERATED ISSUE RESOLUTION AND
11 REFERRAL.—

12 “(A) AGENCY ISSUE RESOLUTION MEET-
13 ING.—

14 “(i) IN GENERAL.—A Federal agency
15 of jurisdiction, project sponsor, or the Gov-
16 ernor of a State in which a project is lo-
17 cated may request an issue resolution
18 meeting to be conducted by the lead agen-
19 cy.

20 “(ii) ACTION BY LEAD AGENCY.—The
21 lead agency shall convene an issue resolu-
22 tion meeting under clause (i) with the rel-
23 evant participating agencies and the
24 project sponsor, including the Governor

1 only if the meeting was requested by the
2 Governor, to resolve issues that could—

3 “(I) delay completion of the envi-
4 ronmental review process; or

5 “(II) result in denial of any ap-
6 provals required for the project under
7 applicable laws.

8 “(iii) DATE.—A meeting requested
9 under this subparagraph shall be held by
10 not later than 21 days after the date of re-
11 ceipt of the request for the meeting, unless
12 the lead agency determines that there is
13 good cause to extend the time for the
14 meeting.

15 “(iv) NOTIFICATION.—On receipt of a
16 request for a meeting under this subpara-
17 graph, the lead agency shall notify all rel-
18 evant participating agencies of the request,
19 including the issue to be resolved, and the
20 date for the meeting.

21 “(v) DISPUTES.—If a relevant partici-
22 pating agency with jurisdiction over an ap-
23 proval required for a project under applica-
24 ble law determines that the relevant infor-
25 mation necessary to resolve the issue has

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

1 the meeting and convene the meeting not
2 later than 30 days after the date of
3 issuance of the notice.

4 “(C) REFERRAL OF ISSUE RESOLUTION.—

5 “(i) REFERRAL TO COUNCIL ON ENVI-
6 RONMENTAL QUALITY.—

7 “(I) IN GENERAL.—If resolution
8 is not achieved by not later than 30
9 days after the date of an issue resolu-
10 tion meeting under subparagraph (B),
11 the Secretary shall refer the matter to
12 the Council on Environmental Qual-
13 ity.

14 “(II) MEETING.—Not later than
15 30 days after the date of receipt of a
16 referral from the Secretary under sub-
17 clause (I), the Council on Environ-
18 mental Quality shall hold an issue res-
19 olution meeting with the lead agency,
20 the heads of relevant participating
21 agencies, and the project sponsor (in-
22 cluding the Governor only if an initial
23 request for an issue resolution meet-
24 ing came from the Governor).

1 “(ii) REFERRAL TO THE PRESI-
 2 DENT.—If a resolution is not achieved by
 3 not later than 30 days after the date of the
 4 meeting convened by the Council on Envi-
 5 ronmental Quality under clause (i)(II), the
 6 Secretary shall refer the matter directly to
 7 the President.

8 “(6) FINANCIAL TRANSFER PROVISIONS.—

9 “(A) IN GENERAL.—A Federal agency of
 10 jurisdiction over an approval required for a
 11 project under applicable laws shall complete any
 12 required approval on an expeditious basis using
 13 the shortest existing applicable process.

14 “(B) FAILURE TO DECIDE.—

15 “(i) IN GENERAL.—If an agency de-
 16 scribed in subparagraph (A) fails to render
 17 a decision under any Federal law relating
 18 to a project that requires the preparation
 19 of an environmental impact statement or
 20 environmental assessment, including the
 21 issuance or denial of a permit, license, or
 22 other approval by the date described in
 23 clause (ii), the agency shall transfer from
 24 the applicable office of the head of the
 25 agency, or equivalent office to which the

1 authority for rendering the decision has
2 been delegated by law, to the agency or di-
3 vision charged with rendering a decision
4 regarding the application, by not later than
5 1 day after the applicable date under
6 clause (ii), and once each week thereafter
7 until a final decision is rendered, subject to
8 subparagraph (C)—

9 “(I) \$20,000 for any project for
10 which an annual financial plan under
11 section 106(i) is required; or

12 “(II) \$10,000 for any other
13 project requiring preparation of an
14 environmental assessment or environ-
15 mental impact statement.

16 “(ii) DESCRIPTION OF DATE.—The
17 date referred to in clause (i) is the later
18 of—

19 “(I) the date that is 180 days
20 after the date on which an application
21 for the permit, license, or approval is
22 complete; and

23 “(II) the date that is 180 days
24 after the date on which the Federal
25 lead agency issues a decision on the

1 project under the National Environ-
2 mental Policy Act of 1969 (42 U.S.C.
3 4321 et seq.).

4 “(C) LIMITATIONS.—

5 “(i) IN GENERAL.—No transfer of
6 funds under subparagraph (B) relating to
7 an individual project shall exceed, in any
8 fiscal year, an amount equal to 1 percent
9 of the funds made available for the appli-
10 cable agency office.

11 “(ii) FAILURE TO DECIDE.—The total
12 amount transferred in a fiscal year as a re-
13 sult of a failure by an agency to make a
14 decision by an applicable deadline shall not
15 exceed an amount equal to 5 percent of the
16 funds made available for the applicable
17 agency office for that fiscal year.

18 “(D) TREATMENT.—The transferred funds
19 shall only be available to the agency or division
20 charged with rendering the decision as addi-
21 tional resources, pursuant to subparagraph (F).

22 “(E) NO FAULT OF AGENCY.—A transfer
23 of funds under this paragraph shall not be
24 made if the agency responsible for rendering
25 the decision certifies that—

1 “(i) the agency has not received nec-
2 essary information or approvals from an-
3 other entity, such as the project sponsor,
4 in a manner that affects the ability of the
5 agency to meet any requirements under
6 State, local, or Federal law; or

7 “(ii) significant new information or
8 circumstances, including a major modifica-
9 tion to an aspect of the project, requires
10 additional analysis for the agency to make
11 a decision on the project application.

12 “(F) TREATMENT OF FUNDS.—

13 “(i) IN GENERAL.—Funds transferred
14 under this paragraph shall supplement re-
15 sources available to the agency or division
16 charged with making a decision for the
17 purpose of expediting permit reviews.

18 “(ii) AVAILABILITY.—Funds trans-
19 ferred under this paragraph shall be avail-
20 able for use or obligation for the same pe-
21 riod that the funds were originally author-
22 ized or appropriated, plus 1 additional fis-
23 cal year.

24 “(iii) LIMITATION.—The Federal
25 agency with jurisdiction for the decision

1 that has transferred the funds pursuant to
2 this paragraph shall not reprogram funds
3 to the office of the head of the agency, or
4 equivalent office, to reimburse that office
5 for the loss of the funds.

6 “(G) AUDITS.—In any fiscal year in which
7 any Federal agency transfers funds pursuant to
8 this paragraph, the Inspector General of that
9 agency shall—

10 “(i) conduct an audit to assess com-
11 pliance with the requirements of this para-
12 graph; and

13 “(ii) not later than 120 days after the
14 end of the fiscal year during which the
15 transfer occurred, submit to the Committee
16 on Environment and Public Works of the
17 Senate and any other appropriate congres-
18 sional committees a report describing the
19 reasons why the transfers were levied, in-
20 cluding allocations of resources.

21 “(H) EFFECT OF PARAGRAPH.—Nothing
22 in this paragraph affects or limits the applica-
23 tion of, or obligation to comply with, any Fed-
24 eral, State, local, or tribal law.

“(I) AUTHORITY FOR INTRA-AGENCY
TRANSFER OF FUNDS.—The requirement pro-
vided under this paragraph for a Federal agen-
cy 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 deter-
mine the intra-agency transfer or realloca-
tion 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 expe-
ditious basis and that the shortest existing ap-

1 plicable process under that Act is implemented;
2 and

3 “(B) the President shall submit to the
4 Committee on Transportation and Infrastruc-
5 ture of the House of Representatives and the
6 Committee on Environment and Public Works
7 of the Senate, not less frequently than once
8 every 120 days after the date of enactment of
9 the MAP-21, a report on the status and
10 progress of the following projects and activities
11 funded under this title with respect to compli-
12 ance with applicable requirements under the
13 National Environmental Policy Act of 1969 (42
14 U.S.C. 4321 et seq.):

15 “(i) Projects and activities required to
16 prepare an annual financial plan under
17 section 106(i).

18 “(ii) A sample of not less than 5 per-
19 cent of the projects requiring preparation
20 of an environmental impact statement or
21 environmental assessment in each State.”.

22 **SEC. 1314. ENVIRONMENTAL PROCEDURES INITIATIVE.**

23 (a) ESTABLISHMENT.—For grant programs under
24 which funds are distributed by formula by the Department
25 of Transportation, the Secretary shall establish an initia-

1 tive to review and develop consistent procedures for envi-
 2 ronmental permitting and procurement requirements.

3 (b) REPORT.—The Secretary shall publish the results
 4 of the initiative described in subsection (a) in an electroni-
 5 cally accessible format.

6 **SEC. 1315. ALTERNATIVE RELOCATION PAYMENT DEM-**
 7 **ONSTRATION PROGRAM.**

8 (a) PAYMENT DEMONSTRATION PROGRAM.—

9 (1) IN GENERAL.—Except as otherwise pro-
 10 vided in this section, for the purpose of identifying
 11 improvements in the timeliness of providing reloca-
 12 tion assistance to persons displaced by Federal or
 13 federally assisted programs and projects, the Sec-
 14 retary may allow not more than 5 States to partici-
 15 pate in an alternative relocation payment demonstra-
 16 tion program under which payments to displaced
 17 persons eligible for relocation assistance pursuant to
 18 the Uniform Relocation Assistance and Real Prop-
 19 erty Acquisition Policies Act of 1970 (42 U.S.C.
 20 4601 et seq.) (including implementing regulations),
 21 are calculated based on reasonable estimates and
 22 paid in advance of the physical displacement of the
 23 displaced person.

24 (2) TIMING OF PAYMENTS.—Relocation assist-
 25 ance payments for projects carried out under an ap-

1 proved State demonstration program may be pro-
2 vided to the displaced person at the same time as
3 payments of just compensation for real property ac-
4 quired for the program or project of the State.

5 (3) COMBINING OF PAYMENTS.—Payments for
6 relocation and just compensation may be combined
7 into a single unallocated amount.

8 (b) CRITERIA.—

9 (1) IN GENERAL.—After public notice and an
10 opportunity to comment, the Secretary shall adopt
11 criteria for carrying out the alternative relocation
12 payment demonstration program.

13 (2) CONDITIONS.—

14 (A) IN GENERAL.—Conditions for State
15 participation in the demonstration program
16 shall include the conditions described in sub-
17 paragraphs (B) through (E).

18 (B) MEMORANDUM OF AGREEMENT.—A
19 State wishing to participate in the demonstra-
20 tion program shall be required to enter into a
21 memorandum of agreement with the Secretary
22 that includes provisions relating to—

23 (i) the selection of projects or pro-
24 grams within the State to which the alter-

1 native relocation payment process will be
2 applied;

3 (ii) program and project-level moni-
4 toring;

5 (iii) performance measurement;

6 (iv) reporting; and

7 (v) the circumstances under which the
8 Secretary may terminate the demonstra-
9 tion program of the State before the end of
10 the program term.

11 (C) TERM OF DEMONSTRATION PRO-
12 GRAM.—Except as provided in subparagraph
13 (B)(v), the demonstration program of the State
14 may continue for up to 3 years after the date
15 on which the Secretary executes the memo-
16 randum of agreement.

17 (D) DISPLACED PERSONS.—

18 (i) IN GENERAL.—Displaced persons
19 affected by a project included in the dem-
20 onstration program of the State shall be
21 informed in writing in a format that is
22 clear and easily understandable that the
23 relocation payments that the displaced per-
24 sons receive under the demonstration pro-
25 gram may be higher or lower than the

1 amount that the displaced persons would
2 receive under the standard relocation as-
3 sistance process.

4 (ii) ALTERNATIVE PROCESS.—Dis-
5 placed persons shall be informed—

6 (I) of the right of the displaced
7 persons not to participate in the dem-
8 onstration program; and

9 (II) that the alternative reloca-
10 tion payment process can be used only
11 if the displaced person agrees in writ-
12 ing.

13 (iii) ASSISTANCE.—The displacing
14 agency shall provide any displaced person
15 who elects not to participate in the dem-
16 onstration program with relocation assist-
17 ance in accordance with the Uniform Relo-
18 cation Assistance and Real Property Ac-
19 quisition Policies Act of 1970 (42 U.S.C.
20 4601 et seq.) (including implementing reg-
21 ulations).

22 (E) OTHER DISPLACEMENTS.—

23 (i) IN GENERAL.—If other Federal
24 agencies plan displacements in or adjacent
25 to a demonstration program project area

1 within the same time period as the project
2 acquisition and relocation actions of the
3 demonstration program, the Secretary
4 shall adopt measures to protect against in-
5 consistent treatment of displaced persons.

6 (ii) INCLUSION.—Measures described
7 in clause (i) may include a determination
8 that the demonstration program authority
9 may not be used on a particular project.

10 (c) REPORT.—

11 (1) IN GENERAL.—The Secretary shall submit
12 to Congress—

13 (A) at least every 18 months after the date
14 of enactment of this Act, a report on the
15 progress and results of the demonstration pro-
16 gram; and

17 (B) not later than 1 year after all State
18 demonstration programs have ended, a final re-
19 port.

20 (2) REQUIREMENTS.—The final report shall in-
21 clude an evaluation by the Secretary of the merits
22 of the alternative relocation payment demonstration
23 program, including the effects of the demonstration
24 program on—

1 (A) displaced persons and the protections
2 afforded to displaced persons by the Uniform
3 Relocation Assistance and Real Property Acqui-
4 sition Policies Act of 1970 (42 U.S.C. 4601 et
5 seq.);

6 (B) the efficiency of the delivery of Fed-
7 eral-aid highway projects and overall effects on
8 the Federal-aid highway program; and

9 (C) the achievement of the purposes of the
10 Uniform Relocation Assistance and Real Prop-
11 erty Acquisition Policies Act of 1970 (42
12 U.S.C. 4601 et seq.).

13 (d) LIMITATION.—The authority of this section may
14 be used only on projects funded under title 23, United
15 States Code, in cases in which the funds are administered
16 by the Federal Highway Administration.

17 (e) AUTHORITY.—The authority of the Secretary to
18 approve an alternate relocation payment demonstration
19 program for a State terminates on the date that is 3 years
20 after the date of enactment of this Act

21 **SEC. 1316. REVIEW OF FEDERAL PROJECT AND PROGRAM**
22 **DELIVERY.**

23 (a) COMPLETION TIME ASSESSMENTS AND RE-
24 PORTS.—

1 (1) IN GENERAL.—For projects funded under
2 title 23, United States Code, the Secretary shall
3 compare—

4 (A)(i) the completion times of categorical
5 exclusions, environmental assessments, and en-
6 vironmental impact statements initiated after
7 calendar year 2005; to

8 (ii) the completion times of categorical ex-
9 clusions, environmental assessments, and envi-
10 ronmental impact statements initiated during a
11 period prior to calendar year 2005; and

12 (B)(i) the completion times of categorical
13 exclusions, environmental assessments, and en-
14 vironmental impact statements initiated during
15 the period beginning on January 1, 2005, and
16 ending on the date of enactment of this Act; to

17 (ii) the completion times of categorical ex-
18 clusions, environmental assessments, and envi-
19 ronmental impact statements initiated after the
20 date of enactment of this Act.

21 (2) REPORT.—The Secretary shall submit to
22 the Committee on Transportation and Infrastructure
23 of the House of Representatives and the Committee
24 on Environment and Public Works of the Senate a
25 report—

1 (A) not later than 1 year after the date of
2 enactment of this Act that—

3 (i) describes the results of the review
4 conducted under paragraph (1)(A); and

5 (ii) identifies any change in the timing
6 for completions, including the reasons for
7 any such change and the reasons for
8 delays in excess of 5 years; and

9 (B) not later than 5 years after the date
10 of enactment of this Act that—

11 (i) describes the results of the review
12 conducted under paragraph (1)(B); and

13 (ii) identifies any change in the timing
14 for completions, including the reasons for
15 any such change and the reasons for
16 delays in excess of 5 years.

17 (b) ADDITIONAL REPORT.—Not later than 2 years
18 after the date of enactment of this Act, the Secretary shall
19 submit to the Committee on Transportation and Infra-
20 structure of the House of Representatives and the Com-
21 mittee on Environment and Public Works of the Senate
22 a report on the types and justification for the additional
23 categorical exclusions granted under the authority pro-
24 vided under sections 1309 and 1310.

1 (c) GAO REPORT.—The Comptroller General of the
2 United States shall—

3 (1) assess the reforms carried out under sec-
4 tions 1301 through 1315 (including the amendments
5 made by those sections); and

6 (2) not later than 5 years after the date of en-
7 actment of this Act, submit to the Committee on
8 Transportation and Infrastructure of the House of
9 Representatives and the Committee on Environment
10 and Public Works of the Senate a report that de-
11 scribes the results of the assessment.

12 (d) INSPECTOR GENERAL REPORT.—The Inspector
13 General of the Department of Transportation shall—

14 (1) assess the reforms carried out under sec-
15 tions 1301 through 1315 (including the amendments
16 made by those sections); and

17 (2) submit to the Committee on Transportation
18 and Infrastructure of the House of Representatives
19 and the Committee on Environment and Public
20 Works of the Senate—

21 (A) not later than 2 years after the date
22 of enactment of this Act, an initial report of the
23 findings of the Inspector General; and

1 (B) not later than 4 years after the date
2 of enactment of this Act, a final report of the
3 findings.

4 **Subtitle D—Highway Safety**

5 **SEC. 1401. JASON'S LAW.**

6 (a) IN GENERAL.—It is the sense of Congress that
7 it is a national priority to address projects under this sec-
8 tion for the shortage of long-term parking for commercial
9 motor vehicles on the National Highway System to im-
10 prove the safety of motorized and nonmotorized users and
11 for commercial motor vehicle operators.

12 (b) ELIGIBLE PROJECTS.—Eligible projects under
13 this section are those that—

14 (1) serve the National Highway System; and

15 (2) may include the following:

16 (A) Constructing safety rest areas (as de-
17 fined in section 120(c) of title 23, United
18 States Code) that include parking for commer-
19 cial motor vehicles.

20 (B) Constructing commercial motor vehicle
21 parking facilities adjacent to commercial truck
22 stops and travel plazas.

23 (C) Opening existing facilities to commer-
24 cial motor vehicle parking, including inspection
25 and weigh stations and park-and-ride facilities.

1 (D) Promoting the availability of publicly
2 or privately provided commercial motor vehicle
3 parking on the National Highway System using
4 intelligent transportation systems and other
5 means.

6 (E) Constructing turnouts along the Na-
7 tional Highway System for commercial motor
8 vehicles.

9 (F) Making capital improvements to public
10 commercial motor vehicle parking facilities cur-
11 rently closed on a seasonal basis to allow the fa-
12 cilities to remain open year-round.

13 (G) Improving the geometric design of
14 interchanges on the National Highway System
15 to improve access to commercial motor vehicle
16 parking facilities.

17 (c) SURVEY AND COMPARATIVE ASSESSMENT.—

18 (1) IN GENERAL.—The Secretary, in consulta-
19 tion with relevant State motor carrier safety per-
20 sonnel, shall conduct a survey regarding the avail-
21 ability of parking facilities within each State—

22 (A) to evaluate the capability of the State
23 to provide adequate parking and rest facilities
24 for motor carriers engaged in interstate motor
25 carrier service;

1 (B) to assess the volume of motor carrier
2 traffic through the State; and

3 (C) to develop a system of metrics to
4 measure the adequacy of parking facilities in
5 the State.

6 (2) RESULTS.—The results of the survey under
7 paragraph (1) shall be made available to the public
8 on the website of the Department of Transportation.

9 (3) PERIODIC UPDATES.—The Secretary shall
10 periodically update the survey under this subsection.

11 (d) TREATMENT OF PROJECTS.—Notwithstanding
12 any other provision of law, projects funded through the
13 authority provided under this section shall be treated as
14 projects on a Federal-aid system under chapter 1 of title
15 23, United States Code.

16 **SEC. 1402. OPEN CONTAINER REQUIREMENTS.**

17 Section 154(c) of title 23, United States Code, is
18 amended—

19 (1) by striking paragraph (2) and inserting the
20 following:

21 “(2) FISCAL YEAR 2012 AND THEREAFTER.—

22 “(A) RESERVATION OF FUNDS.—On Octo-
23 ber 1, 2011, and each October 1 thereafter, if
24 a State has not enacted or is not enforcing an
25 open container law described in subsection (b),

1 the Secretary shall reserve an amount equal to
2 2.5 percent of the funds to be apportioned to
3 the State on that date under each of para-
4 graphs (1) and (2) of section 104(b) until the
5 State certifies to the Secretary the means by
6 which the State will use those reserved funds in
7 accordance with subparagraphs (A) and (B) of
8 paragraph (1) and paragraph (3).

9 “(B) TRANSFER OF FUNDS.—As soon as
10 practicable after the date of receipt of a certifi-
11 cation from a State under subparagraph (A),
12 the Secretary shall—

13 “(i) transfer the reserved funds identi-
14 fied by the State for use as described in
15 subparagraphs (A) and (B) of paragraph
16 (1) to the apportionment of the State
17 under section 402; and

18 “(ii) release the reserved funds identi-
19 fied by the State as described in paragraph
20 (3).”;

21 (2) by striking paragraph (3) and inserting the
22 following:

23 “(3) USE FOR HIGHWAY SAFETY IMPROVEMENT
24 PROGRAM.—

1 “(A) IN GENERAL.—A State may elect to
2 use all or a portion of the funds transferred
3 under paragraph (2) for activities eligible under
4 section 148.

5 “(B) STATE DEPARTMENTS OF TRANSPOR-
6 TATION.—If the State makes an election under
7 subparagraph (A), the funds shall be trans-
8 ferred to the department of transportation of
9 the State, which shall be responsible for the ad-
10 ministration of the funds.”; and

11 (3) by striking paragraph (5) and inserting the
12 following:

13 “(5) DERIVATION OF AMOUNT TO BE TRANS-
14 FERRED.—The amount to be transferred under
15 paragraph (2) may be derived from the following:

16 “(A) The apportionment of the State
17 under section 104(b)(1).

18 “(B) The apportionment of the State
19 under section 104(b)(2).”.

20 **SEC. 1403. MINIMUM PENALTIES FOR REPEAT OFFENDERS**
21 **FOR DRIVING WHILE INTOXICATED OR DRIV-**
22 **ING UNDER THE INFLUENCE.**

23 (a) DEFINITIONS.—Section 164(a) of title 23, United
24 States Code, is amended—

25 (1) by striking paragraph (3);

1 (2) by redesignating paragraphs (4) and (5) as
2 paragraphs (3) and (4), respectively; and

3 (3) in paragraph (4) (as so redesignated) by
4 striking subparagraph (A) and inserting the fol-
5 lowing:

6 “(A) receive—

7 “(i) a suspension of all driving privi-
8 leges for not less than 1 year; or

9 “(ii) a suspension of unlimited driving
10 privileges for 1 year, allowing for the rein-
11 statement of limited driving privileges sub-
12 ject to restrictions and limited exemptions
13 as established by State law, if an ignition
14 interlock device is installed for not less
15 than 1 year on each of the motor vehicles
16 owned or operated, or both, by the indi-
17 vidual;”.

18 (b) TRANSFER OF FUNDS.—Section 164(b) of title
19 23, United States Code, is amended—

20 (1) by striking paragraph (2) and inserting the
21 following:

22 “(2) FISCAL YEAR 2012 AND THEREAFTER.—

23 “(A) RESERVATION OF FUNDS.—On Octo-
24 ber 1, 2011, and each October 1 thereafter, if
25 a State has not enacted or is not enforcing a

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.—

1 “(A) IN GENERAL.—A State may elect to
 2 use all or a portion of the funds transferred
 3 under paragraph (2) for activities eligible under
 4 section 148.

5 “(B) STATE DEPARTMENTS OF TRANSPOR-
 6 TATION.—If the State makes an election under
 7 subparagraph (A), the funds shall be trans-
 8 ferred to the department of transportation of
 9 the State, which shall be responsible for the ad-
 10 ministration of the funds.”; and

11 (3) by striking paragraph (5) and inserting the
 12 following:

13 “(5) DERIVATION OF AMOUNT TO BE TRANS-
 14 FERRED.—The amount to be transferred under
 15 paragraph (2) may be derived from the following:

16 “(A) The apportionment of the State
 17 under section 104(b)(1).

18 “(B) The apportionment of the State
 19 under section 104(b)(2).”.

20 **SEC. 1404. ADJUSTMENTS TO PENALTY PROVISIONS.**

21 (a) VEHICLE WEIGHT LIMITATIONS.—Section
 22 127(a)(1) of title 23, United States Code, is amended by
 23 striking “No funds shall be apportioned in any fiscal year
 24 under section 104(b)(1) of this title to any State which”
 25 and inserting “The Secretary shall withhold 50 percent

1 of the apportionment of a State under section 104(b)(1)
2 in any fiscal year in which the State”.

3 (b) CONTROL OF JUNKYARDS.—Section 136 of title
4 23, United States Code, is amended—

5 (1) in subsection (b), in the first sentence—

6 (A) by striking “10 per centum” and in-
7 serting “7 percent”; and

8 (B) by striking “section 104 of this title”
9 and inserting “paragraphs (1) through (5) of
10 section 104(b)”; and

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

12 “(n) For purposes of this section, the terms ‘primary
13 system’ and ‘Federal-aid primary system’ mean any high-
14 way that is on the National Highway System, which in-
15 cludes the Interstate Highway System.”.

16 (c) ENFORCEMENT OF VEHICLE SIZE AND WEIGHT
17 LAWS.—Section 141(b)(2) of title 23, United States Code,
18 is amended—

19 (1) by striking “10 per centum” and inserting
20 “7 percent”; and

21 (2) by striking “section 104 of this title” and
22 inserting “paragraphs (1) through (5) of section
23 104(b)”.

1 (d) PROOF OF PAYMENT OF THE HEAVY VEHICLE
 2 USE TAX.—Section 141(c) of title 23, United States
 3 Code, is amended—

4 (1) by striking “section 104(b)(4)” each place
 5 it appears and inserting “section 104(b)(1)”; and

6 (2) in the first sentence by striking “25 per
 7 centum” and inserting “ 8 percent”.

8 (e) USE OF SAFETY BELTS.—Section 153(h) of title
 9 23, United States Code, is amended—

10 (1) by striking paragraph (1);

11 (2) by redesignating paragraph (2) as para-
 12 graph (1);

13 (3) in paragraph (1) (as so redesignated)—

14 (A) by striking the paragraph heading and
 15 inserting “PRIOR TO FISCAL YEAR 2012”; and

16 (B) by inserting “and before October 1,
 17 2011,” after “September 30, 1994,”; and

18 (4) by inserting after paragraph (1) (as so re-
 19 designated) the following:

20 “(2) FISCAL YEAR 2012 AND THEREAFTER.—If,
 21 at any time in a fiscal year beginning after Sep-
 22 tember 30, 2011, a State does not have in effect a
 23 law described in subsection (a)(2), the Secretary
 24 shall transfer an amount equal to 2 percent of the
 25 funds apportioned to the State for the succeeding

1 fiscal year under each of paragraphs (1) through (3)
2 of section 104(b) to the apportionment of the State
3 under section 402.”.

4 (f) NATIONAL MINIMUM DRINKING AGE.—Section
5 158(a)(1) of title 23, United States Code, is amended—

6 (1) by striking “The Secretary” and inserting
7 the following:

8 “(A) FISCAL YEARS BEFORE 2012.—The
9 Secretary”; and

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

11 “(B) FISCAL YEAR 2012 AND THERE-
12 AFTER.—For fiscal year 2012 and each fiscal
13 year thereafter, the amount to be withheld
14 under this section shall be an amount equal to
15 8 percent of the amount apportioned to the
16 noncompliant State, as described in subpara-
17 graph (A), under paragraphs (1) and (2) of sec-
18 tion 104(b).”.

19 (g) DRUG OFFENDERS.—Section 159 of title 23,
20 United States Code, is amended—

21 (1) in subsection (a)—

22 (A) by striking paragraph (1);

23 (B) by redesignating paragraph (2) as
24 paragraph (1);

1 (C) in paragraph (1) (as so redesignated)
 2 by striking “(including any amounts withheld
 3 under paragraph (1))”; and

4 (D) by inserting after paragraph (1) (as so
 5 redesignated) the following:

6 “(2) FISCAL YEAR 2012 AND THEREAFTER.—

7 The Secretary shall withhold an amount equal to 8
 8 percent of the amount required to be apportioned to
 9 any State under each of paragraphs (1) and (2) of
 10 section 104(b) on the first day of each fiscal year
 11 beginning after September 30, 2011, if the State
 12 fails to meet the requirements of paragraph (3) on
 13 the first day of the fiscal year.”; and

14 (2) by striking subsection (b) and inserting the
 15 following:

16 “(b) EFFECT OF NONCOMPLIANCE.—No funds with-
 17 held under this section from apportionments to any State
 18 shall be available for apportionment to that State.”.

19 (h) ZERO TOLERANCE BLOOD ALCOHOL CON-
 20 CENTRATION FOR MINORS.—Section 161(a) of title 23,
 21 United States Code, is amended—

22 (1) by striking paragraph (1);

23 (2) by redesignating paragraph (2) as para-
 24 graph (1);

25 (3) in paragraph (1) (as so redesignated)—

1 (A) by striking the paragraph heading and
2 inserting “PRIOR TO FISCAL YEAR 2012”; and

3 (B) by inserting “through fiscal year
4 2011” after “each fiscal year thereafter”; and

5 (4) by inserting after paragraph (1) (as so re-
6 designated) the following:

7 “(2) FISCAL YEAR 2012 AND THEREAFTER.—

8 The Secretary shall withhold an amount equal to 8
9 percent of the amount required to be apportioned to
10 any State under each of paragraphs (1) and (2) of
11 section 104(b) on October 1, 2011, and on October
12 1 of each fiscal year thereafter, if the State does not
13 meet the requirement of paragraph (3) on that
14 date.”.

15 (i) OPERATION OF MOTOR VEHICLES BY INTOXI-
16 CATED PERSONS.—Section 163(e) of title 23, United
17 States Code, is amended by striking paragraphs (1) and
18 (2) and inserting the following:

19 “(1) FISCAL YEARS 2007 THROUGH 2011.—On
20 October 1, 2006, and October 1 of each fiscal year
21 thereafter through fiscal year 2011, if a State has
22 not enacted or is not enforcing a law described in
23 subsection (a), the Secretary shall withhold an
24 amount equal to 8 percent of the amounts to be ap-

1 portioned to the State on that date under each of
2 paragraphs (1), (3), and (4) of section 104(b).

3 “(2) FISCAL YEAR 2012 AND THEREAFTER.—On
4 October 1, 2011, and October 1 of each fiscal year
5 thereafter, if a State has not enacted or is not en-
6 forcing a law described in subsection (a), the Sec-
7 retary shall withhold an amount equal to 6 percent
8 of the amounts to be apportioned to the State on
9 that date under each of paragraphs (1) and (2) of
10 section 104(b).”.

11 (j) COMMERCIAL DRIVER’S LICENSE.—Section
12 31314 of title 49, United States Code, is amended—

13 (1) by redesignating subsection (c) as sub-
14 section (d); and

15 (2) by inserting after subsection (b) the fol-
16 lowing:

17 “(c) PENALTIES IMPOSED IN FISCAL YEAR 2012
18 AND THEREAFTER.—Effective beginning on October 1,
19 2011—

20 “(1) the penalty for the first instance of non-
21 compliance by a State under this section shall be not
22 more than an amount equal to 4 percent of funds
23 required to be apportioned to the noncompliant
24 State under paragraphs (1) and (2) of section
25 104(b) of title 23; and

1 “(2) the penalty for subsequent instances of
 2 noncompliance shall be not more than an amount
 3 equal to 8 percent of funds required to be appor-
 4 tioned to the noncompliant State under paragraphs
 5 (1) and (2) of section 104(b) of title 23.”.

6 **SEC. 1405. HIGHWAY WORKER SAFETY.**

7 ~~(a) POSITIVE PROTECTIVE DEVICES.~~—Not later than
 8 60 days after the date of enactment of this Act, the Sec-
 9 retary shall modify section 630.1108(a) of title 23, Code
 10 of Federal Regulations (as in effect on the date of enact-
 11 ment of this Act), to ensure that—

12 (1) at a minimum, positive protective measures
 13 are used to separate workers on highway construc-
 14 tion projects from motorized traffic in all work zones
 15 conducted under traffic in areas that offer workers
 16 no means of escape (such as tunnels and bridges),
 17 unless an engineering study determines otherwise;

18 (2) temporary longitudinal traffic barriers are
 19 used to protect workers on highway construction
 20 projects in long-duration stationary work zones when
 21 the project design speed is anticipated to be high
 22 and the nature of the work requires workers to be
 23 within 1 lane-width from the edge of a live travel
 24 lane, unless—

1 (A) an analysis by the project sponsor de-
2 termines otherwise; or

3 (B) the project is outside of an urbanized
4 area and the annual average daily traffic load
5 of the applicable road is less than 100 vehicles
6 per hour; and

7 (3) when positive protective devices are nec-
8 essary for highway construction projects, those de-
9 vices are paid for on a unit-pay basis, unless doing
10 so would create a conflict with innovative con-
11 tracting approaches, such as design-build or some
12 performance-based contracts under which the con-
13 tractor is paid to assume a certain risk allocation
14 and payment is generally made on a lump-sum basis.

15 ~~(b) TURNOUT GEAR.—Notwithstanding sections~~
16 ~~6D.03 and 6E.02 of the Manual on Uniform Traffic Con-~~
17 ~~trol Devices dated 2009 (as in effect on the date of enact-~~
18 ~~ment of this Act), any firefighter engaged in any type of~~
19 ~~operation while working within the right-of-way of a Fed-~~
20 ~~eral-aid highway may optionally wear for compliance~~
21 ~~retroreflective turnout gear that is specified and regulated~~
22 ~~by other organizations, such as the gear specified in Na-~~
23 ~~tional Fire Protection Association standards 1971 through~~
24 ~~2007 (as in effect on that date of enactment), in lieu of~~

1 apparel meeting the requirements under ANSI/ISEA 107–
 2 2004 or ANSI/ISEA 207–2006 (as in effect on that date).

3 **Subtitle E—Miscellaneous**

4 **SEC. 1501. PROGRAM EFFICIENCIES.**

5 The first sentence of section 102(b) of title 23,
 6 United States Code, is amended by striking “made avail-
 7 able for such engineering” and inserting “reimbursed for
 8 the preliminary engineering”.

9 **SEC. 1502. PROJECT APPROVAL AND OVERSIGHT.**

10 Section 106 of title 23, United States Code, is
 11 amended—

12 (1) in subsection (a)(2) by inserting “recipient”
 13 before “formalizing”;

14 (2) in subsection (c)—

15 (A) in paragraph (1)—

16 (i) in the heading, by striking “NON-
 17 INTERSTATE”; and

18 (ii) by striking “but not on the Inter-
 19 state System”; and

20 (B) by striking paragraph (4) and insert-
 21 ing the following:

22 “(4) LIMITATION ON INTERSTATE PROJECTS.—

23 “(A) IN GENERAL.—The Secretary shall
 24 not assign any responsibilities to a State for
 25 projects the Secretary determines to be in a

1 high risk category, as defined under subpara-
 2 graph (B).

3 “(B) HIGH RISK CATEGORIES.—The Sec-
 4 retary may define the high risk categories
 5 under this subparagraph on a national basis, a
 6 State-by-State basis, or a national and State-
 7 by-State basis, as determined to be appropriate
 8 by the Secretary.”;

9 (3) in subsection (e)—

10 (A) in paragraph (1)—

11 (i) in subparagraph (A)—

12 (I) in the matter preceding clause

13 (i)—

14 (aa) by striking “concept”
 15 and inserting “planning”; and

16 (bb) by striking “multidis-
 17 ciplined” and inserting “multi-
 18 disciplinary”; and

19 (II) by striking clause (i) and in-
 20 serting the following:

21 “(i) providing the needed functions
 22 and achieving the established commitments
 23 (including environmental, community, and
 24 agency commitments) safely, reliably, and
 25 at the lowest overall lifecycle cost;”; and

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

3 “(ii) refining or redesigning, as appro-
4 priate, the project using different tech-
5 nologies, materials, or methods so as to ac-
6 complish the purpose, functions, and estab-
7 lished commitments (including environ-
8 mental, community, and agency commit-
9 ments) of the project.”;

10 (B) in paragraph (2)—

11 (i) in the matter preceding subpara-
12 graph (A) by striking “or other cost-reduc-
13 tion analysis”;

14 (ii) in subparagraph (A) by striking
15 “Federal-aid system” and inserting “Na-
16 tional Highway System receiving Federal
17 assistance”; and

18 (iii) in subparagraph (B) by inserting
19 “on the National Highway System receiv-
20 ing Federal assistance” after “a bridge
21 project”; and

22 (C) by striking paragraph (4) and insert-
23 ing the following:

24 “(4) REQUIREMENTS.—

1 “(A) VALUE ENGINEERING PROGRAM.—

2 The State shall develop and carry out a value
3 engineering program that—

4 “(i) establishes and documents value
5 engineering program policies and proce-
6 dures;

7 “(ii) ensures that the required value
8 engineering analysis is conducted before
9 completing the final design of a project;

10 “(iii) ensures that the value engineer-
11 ing analysis that is conducted, and the rec-
12 ommendations developed and implemented
13 for each project, are documented in a final
14 value engineering report; and

15 “(iv) monitors, evaluates, and annu-
16 ally submits to the Secretary a report that
17 describes the results of the value analyses
18 that are conducted and the recommenda-
19 tions implemented for each of the projects
20 described in paragraph (2) that are com-
21 pleted in the State.

22 “(B) BRIDGE PROJECTS.—The value engi-
23 neering analysis for a bridge project under
24 paragraph (2) shall—

1 “(i) include bridge superstructure and
 2 substructure requirements based on con-
 3 struction material; and

4 “(ii) be evaluated by the State—

5 “(I) on engineering and economic
 6 bases, taking into consideration ac-
 7 ceptable designs for bridges; and

8 “(II) using an analysis of
 9 lifecycle costs and duration of project
 10 construction.”;

11 (4) in subsection (g)(4) by adding at the end
 12 the following:

13 “(C) FUNDING.—

14 “(i) IN GENERAL.—Subject to project
 15 approval by the Secretary, a State may ob-
 16 ligate funds apportioned to the State under
 17 section 104(b)(2) for carrying out the re-
 18 sponsibilities of the State under subpara-
 19 graph (A).

20 “(ii) ELIGIBLE ACTIVITIES.—Activi-
 21 ties eligible for assistance under this sub-
 22 paragraph include—

23 “(I) State administration of sub-
 24 grants; and

1 “(II) State oversight of subrecipi-
2 ents.

3 “(iii) ANNUAL WORK PLAN.—To re-
4 ceive the funding flexibility made available
5 under this subparagraph, the State shall
6 submit to the Secretary an annual work
7 plan identifying activities to be carried out
8 under this subparagraph during the appli-
9 cable year.

10 “(iv) FEDERAL SHARE.—The Federal
11 share of the cost of activities carried out
12 under this subparagraph shall be 100 per-
13 cent.”; and

14 (5) in subsection (h)—

15 (A) in paragraph (1)(B) by inserting “, in-
16 cluding a phasing plan when applicable” after
17 “financial plan”; and

18 (B) by striking paragraph (3) and insert-
19 ing the following:

20 “(3) FINANCIAL PLAN.—A financial plan—

21 “(A) shall be based on detailed estimates
22 of the cost to complete the project;

23 “(B) shall provide for the annual submis-
24 sion of updates to the Secretary that are based
25 on reasonable assumptions, as determined by

1 the Secretary, of future increases in the cost to
 2 complete the project; and

3 “(C) may include a phasing plan that iden-
 4 tifies fundable incremental improvements or
 5 phases that will address the purpose and the
 6 need of the project in the short term in the
 7 event there are insufficient financial resources
 8 to complete the entire project. If a phasing plan
 9 is adopted for a project pursuant to this sec-
 10 tion, the project shall be deemed to satisfy the
 11 fiscal constraint requirements in the statewide
 12 and metropolitan planning requirements in sec-
 13 tions 134 and 135.”.

14 **SEC. 1503. STANDARDS.**

15 (a) PRACTICAL DESIGN.—Section 109 of title 23,
 16 United States Code, is amended—

17 (1) in subsection (a)—

18 (A) in paragraph (1) by striking “and” at
 19 the end;

20 (B) in paragraph (2) by striking the period
 21 at the end and inserting “; and”; and

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

23 “(3) utilize, when appropriate, practical design
 24 solutions, as defined in this section, to ensure that
 25 transportation needs are met and that funds avail-

1 able for transportation projects are used effi-
2 ciently.”;

3 (2) in subsection (c)—

4 (A) in paragraph (1), in the matter pre-
5 ceding subparagraph (A)—

6 (i) by striking “, reconstruction, re-
7 surfacing (except for maintenance resur-
8 facing), restoration, or rehabilitation” and
9 inserting “or reconstruction”; and

10 (ii) by striking “may take into ac-
11 count” and inserting “shall consider”;

12 (B) in paragraph (2)—

13 (i) in the first sentence of the matter
14 preceding subparagraph (A) by striking
15 “may” and inserting “shall”;

16 (ii) in subparagraph (C) by striking
17 “and” at the end;

18 (iii) by redesignating subparagraph
19 (D) as subparagraph (F); and

20 (iv) by inserting after subparagraph
21 (C) the following:

22 “(D) the publication entitled ‘Highway
23 Safety Manual’ of the American Association of
24 State Highway and Transportation Officials;

1 “(E) the publication entitled ‘A Guide for
2 Achieving Flexibility in Highway Design, 1st
3 Edition’, published by the American Association
4 of State Highway and Transportation Officials;
5 and”;

6 (3) in subsection (f) by inserting “pedestrian
7 walkways,” after “bikeways,”;

8 (4) in subsection (m) by inserting “, safe, and
9 continuous” after “for a reasonable”;

10 (5) in subsection (q) by striking “consistent
11 with the operative safety management system estab-
12 lished in accordance with section 303 or in accord-
13 ance with” inserting “that is in accordance with a
14 State’s strategic highway safety plan and included
15 on”; and

16 (6) by adding at the end the following:

17 “(r) DEFINITION.—In this section, the term ‘prac-
18 tical design solution’ means a collaborative interdiscipli-
19 nary approach that results in a transportation project that
20 fits its physical setting, preserves safety, and balances
21 costs with the necessary scope and project delivery needs
22 of the project, as well as with scenic, aesthetic, historic,
23 and environmental resources.”.

1 (b) ADDITIONAL STANDARDS.—Section 109 of title
 2 23, United States Code (as amended by subsection (a)(6)),
 3 is amended by adding at the end the following:

4 “(s) PAVEMENT MARKINGS.—The Secretary shall not
 5 approve any pavement markings project that includes the
 6 use of glass beads containing more than 200 parts per
 7 million of arsenic or lead, *as determined in accordance with*
 8 *Environmental Protection Agency testing methods 3052,*
 9 *6010B, or 6010C.*”.

10 **SEC. 1504. CONSTRUCTION.**

11 Section 114 of title 23, United States Code, is
 12 amended—

13 (1) in subsection (b)—

14 (A) by striking paragraph (1) and insert-
 15 ing the following:

16 “(1) LIMITATION ON CONVICT LABOR.—Convict
 17 labor shall not be used in construction of Federal-
 18 aid highways or portions of Federal-aid highways
 19 unless the labor is performed by convicts who are on
 20 parole, supervised release, or probation.”; and

21 (B) in paragraph (3) by inserting “in ex-
 22 istence during that period” after “located on a
 23 Federal-aid system”; and

24 (2) in subsection (c)—

1 (A) by striking paragraph (1) and insert-
 2 ing the following:

3 “(1) IN GENERAL.—The Secretary shall ensure
 4 that a worker who is employed on a remote project
 5 for the construction of a Federal-aid highway or por-
 6 tion of a Federal-aid highway in the State of Alaska
 7 and who is not a domiciled resident of the locality
 8 shall receive meals and lodging.”; and

9 (B) in paragraph (3)(C) by striking “high-
 10 way or portion of a highway located on a Fed-
 11 eral-aid system” and inserting “Federal-aid
 12 highway or portion of a Federal-aid highway”.

13 **SEC. 1505. MAINTENANCE.**

14 Section 116 of title 23, United States Code, is
 15 amended—

16 (1) in subsection (a)—

17 (A) in the first sentence, by inserting “or
 18 other direct recipient” before “to maintain”;
 19 and

20 (B) by striking the second sentence;

21 (2) by striking subsection (b) and inserting the
 22 following:

23 “(b) AGREEMENT.—In any State in which the State
 24 transportation department or other direct recipient is
 25 without legal authority to maintain a project described in

1 subsection (a), the transportation department or direct re-
 2 cipient shall enter into a formal agreement with the appro-
 3 priate officials of the county or municipality in which the
 4 project is located providing for the maintenance of the
 5 project.”; and

6 (3) in the first sentence of subsection (c) by in-
 7 serting “or other direct recipient” after “State
 8 transportation department”.

9 **SEC. 1506. FEDERAL SHARE PAYABLE.**

10 Section 120 of title 23, United States Code, is
 11 amended—

12 (1) in the first sentence of subsection (c)(1)—

13 (A) by inserting “maintaining minimum
 14 levels of retroreflectivity of highway signs or
 15 pavement markings,” after “traffic control sig-
 16 nalization,”;

17 (B) by inserting “shoulder and centerline
 18 rumble strips and stripes,” after “pavement
 19 marking,”; and

20 (C) by striking “Federal-aid systems” and
 21 inserting “Federal-aid programs”;

22 (2) in subsection (e)—

23 (A) in the first sentence—

1 (i) in the matter preceding paragraph
2 (1) by striking “on such highway” and in-
3 serting “on the system”; ~~and~~

4 (ii) in paragraph (1) by striking
5 “within 180 days after the actual occur-
6 rence of the natural disaster or catastrophic
7 failure may amount to 100 percent of the
8 costs thereof” and inserting “, beginning for
9 fiscal year 2012, in such time period as the
10 Secretary, in consultation with the Gov-
11 ernor of the impacted State, determines to
12 be appropriate within 270 days after the oc-
13 currence of the natural disaster or cata-
14 strophic failure, taking into consideration
15 any delay in the ability of the State to ac-
16 cess damaged facilities to evaluate damage
17 and the cost of repair, may be, in the dis-
18 cretion of the Secretary, up to 100 percent
19 if the eligible expenses incurred by the State
20 due to the natural disaster or catastrophic
21 failure exceeds the annual apportionment of
22 the State under section 104 for the fiscal
23 year in which the disaster or failure oc-
24 curred”; and

1 ~~(ii)~~(iii) in paragraph (2) by striking
 2 “forest highways, forest development roads
 3 and trails, park roads and trails, parkways,
 4 public lands highways, public lands devel-
 5 opment roads and trails, and Indian res-
 6 ervation roads” and inserting “Federal
 7 land transportation facilities and tribal
 8 transportation facilities”; and
 9 (B) by striking the second and third sen-
 10 tences;
 11 (3) by striking subsection (g) and redesignating
 12 subsections (h) through (l) as subsections (g)
 13 through (k), respectively;
 14 (4) in subsection (i)(1)(A) (as redesignated by
 15 paragraph (3)) by striking “and the Appalachian de-
 16 velopment highway system program under section
 17 14501 of title 40”; and
 18 (5) by striking subsections (j) and (k) (as re-
 19 designated by paragraph (3)) and inserting the fol-
 20 lowing:
 21 “(j) USE OF FEDERAL AGENCY FUNDS.—Notwith-
 22 standing any other provision of law, any Federal funds
 23 other than those made available under this title and title
 24 49, United States Code, may be used to pay the non-Fed-
 25 eral share of the cost of any transportation project that

1 is within, adjacent to, or provides access to Federal land,
 2 the Federal share of which is funded under this title or
 3 chapter 53 of title 49.

4 “(k) USE OF FEDERAL LAND AND TRIBAL TRANS-
 5 PORTATION FUNDS.—Notwithstanding any other provi-
 6 sion of law, the funds authorized to be appropriated to
 7 carry out the tribal transportation program under section
 8 202 and the Federal lands transportation program under
 9 section 203 may be used to pay the non-Federal share of
 10 the cost of any project that is funded under this title or
 11 chapter 53 of title 49 and that provides access to or within
 12 Federal or tribal land.”.

13 **SEC. 1507. TRANSFERABILITY OF FEDERAL-AID HIGHWAY**
 14 **FUNDS.**

15 (a) IN GENERAL.—Section 126 of title 23, United
 16 States Code, is amended to read as follows:

17 **“§ 126. Transferability of Federal-aid highway funds**

18 “(a) IN GENERAL.—Notwithstanding any other pro-
 19 vision of law, subject to subsection (b), a State may trans-
 20 fer from an apportionment under section 104(b) not to
 21 exceed 20 percent of the amount apportioned for the fiscal
 22 year to any other apportionment of the State under that
 23 section.

1 “(b) APPLICATION TO CERTAIN SET-ASIDES.—Funds
2 that are subject to sections 104(d) and 133(d) shall not
3 be transferred under this section.”.

4 (b) CONFORMING AMENDMENT.—The analysis for
5 chapter 1 of title 23, United States Code, is amended by
6 striking the item relating to section 126 and inserting the
7 following:

“126. Transferability of Federal-aid highway funds.”.

8 **SEC. 1508. SPECIAL PERMITS DURING PERIODS OF NA-**
9 **TIONAL EMERGENCY.**

10 Section 127 of title 23, United States Code, is
11 amended by inserting at the end the following:

12 “(i) SPECIAL PERMITS DURING PERIODS OF NA-
13 TIONAL EMERGENCY.—

14 “(1) IN GENERAL.—Notwithstanding any other
15 provision of this section, a State may issue special
16 permits during an emergency to overweight vehicles
17 and loads that can easily be dismantled or divided
18 if—

19 “(A) the President has declared the emer-
20 gency to be a major disaster under the Robert
21 T. Stafford Disaster Relief and Emergency As-
22 sistance Act (42 U.S.C. 5121 et seq.);

23 “(B) the permits are issued in accordance
24 with State law; and

1 “(C) the permits are issued exclusively to
2 vehicles and loads that are delivering relief sup-
3 plies.

4 “(2) EXPIRATION.—A permit issued under
5 paragraph (1) shall expire not later than 120 days
6 after the date of the declaration of emergency under
7 subparagraph (A) of that paragraph.”.

8 **SEC. 1509. ELECTRIC VEHICLE CHARGING STATIONS.**

9 (a) FRINGE AND CORRIDOR PARKING FACILITIES.—
10 Section 137 of title 23, United States Code, is amended—

11 (1) in subsection (a) by inserting after the sec-
12 ond sentence the following: “The addition of electric
13 vehicle charging stations to new or previously funded
14 parking facilities shall be eligible for funding under
15 this section.”; and

16 (2) in subsection (f)(1)—

17 (A) by striking “104(b)(4)” and inserting
18 “104(b)(1)”; and

19 (B) by inserting “including the addition of
20 electric vehicle charging stations,” after “new
21 facilities,”.

22 (b) PUBLIC TRANSPORTATION .—Section 142(a)(1)
23 of title 23, United States Code, is amended by inserting
24 “(which may include electric vehicle charging stations)”
25 after “corridor parking facilities”.

1 **SEC. 1510. HOV FACILITIES.**

2 Section 166 of title 23, United States Code, is
3 amended—

4 (1) in subsection (b)(5)—

5 (A) in subparagraph (A) by striking “Be-
6 fore September 30, 2009, the” and inserting
7 “The”; and

8 (B) in subparagraph (B) by striking “Be-
9 fore September 30, 2009, the” and inserting
10 “The”; and

11 (2) in subsection (d)(1)—

12 (A) in the matter preceding subparagraph
13 (A)—

14 (i) by striking “in a fiscal year shall
15 certify” and inserting “shall submit to the
16 Secretary a report demonstrating that the
17 facility is not already degraded, and that
18 the presence of the vehicles will not cause
19 the facility to become degraded, and cer-
20 tify”; and

21 (ii) by striking “in the fiscal year”;

22 (B) in subparagraph (A) by inserting “and
23 submitting to the Secretary annual reports of
24 those impacts” after “adjacent highways”;

25 (C) in subparagraph (C) by striking “if the
26 presence of the vehicles has degraded the oper-

1 ation of the facility” and inserting “whenever
2 the operation of the facility is degraded”; and

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

4 “(D) MAINTENANCE OF OPERATING PER-
5 FORMANCE.—A facility that has become de-
6 graded shall be brought back into compliance
7 with the minimum average operating speed per-
8 formance standard by not later than 180 days
9 after the date on which the degradation is iden-
10 tified through changes to operation, including
11 the following:

12 “(i) Increase the occupancy require-
13 ment for HOVs.

14 “(ii) Increase the toll charged for ve-
15 hicles allowed under subsection (b) to re-
16 duce demand.

17 “(iii) Charge tolls to any class of vehi-
18 cle allowed under subsection (b) that is not
19 already subject to a toll.

20 “(iv) Limit or discontinue allowing ve-
21 hicles under subsection (b).

22 “(v) Increase the available capacity of
23 the HOV facility.

24 “(E) COMPLIANCE.—If the State fails to
25 bring a facility into compliance under subpara-

1 graph (D), the Secretary shall subject the State
 2 to appropriate program sanctions under section
 3 1.36 of title 23, Code of Federal Regulations
 4 (or successor regulations), until the perform-
 5 ance is no longer degraded.”.

6 **SEC. 1511. CONSTRUCTION EQUIPMENT AND VEHICLES.**

7 (a) IN GENERAL.—Chapter 3 of title 23, United
 8 States Code, is amended by adding at the end the fol-
 9 lowing:

10 **“SEC. 330. CONSTRUCTION EQUIPMENT AND VEHICLES.**

11 “(a) IN GENERAL.—In accordance with the obliga-
 12 tion process established pursuant to section 149(j)(4), a
 13 State shall expend amounts required to be obligated for
 14 this section to install ~~and employ~~ diesel emission control
 15 technology on covered equipment, with an engine that does
 16 not meet ~~any particulate matter emission standards cur-~~
 17 *rent model year new engine standards for PM_{2.5}* for the
 18 applicable engine power group issued by the Environ-
 19 mental Protection Agency, on a covered highway project
 20 within a PM_{2.5} nonattainment or maintenance area.

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

23 “(1) COVERED EQUIPMENT.—The term ‘cov-
 24 ered ~~construction~~ equipment’ means any ~~off-road~~
 25 *nonroad* diesel equipment or on-road diesel equip-

1 ment that is operated on a covered highway con-
 2 struction project for not less than 80 hours over the
 3 life of the project.

4 “(2) COVERED HIGHWAY CONSTRUCTION
 5 PROJECT.—The term ‘covered highway construction
 6 project’ means a highway construction project car-
 7 ried out under this title or any other Federal law
 8 which is funded in whole or in part with Federal
 9 funds.

10 “(3) DIESEL EMISSION CONTROL TECH-
 11 NOLOGY.—The term ‘diesel emission control tech-
 12 nology’ means a technology that—

13 “(A) is—

14 “(i) a diesel exhaust control tech-
 15 nology;

16 “(ii) a diesel engine upgrade;

17 “(iii) a diesel engine repower; or

18 “(iv) an idle reduction control tech-
 19 nology; ~~and~~

20 “(B) reduces PM_{2.5} emissions from covered
 21 equipment by—

22 “(i) not less than 85 percent control
 23 of any emission of particulate matter; or

1 “(ii) the maximum achievable reduc-
 2 tion of any emission of particulate matter;
 3 *and*

4 “(C) *is installed on and operated with the*
 5 *covered equipment while the equipment is oper-*
 6 *ated on a covered highway construction project*
 7 *and that remains operational on the covered*
 8 *equipment for the useful life of the control tech-*
 9 *nology or equipment.*

10 “(4) ELIGIBLE ENTITY.—The term ‘eligible en-
 11 tity’ means an entity (*including a subcontractor of*
 12 *the entity*) that has entered into a prime contract or
 13 agreement with a State to carry out a covered high-
 14 way construction project.

15 “(5) ~~OFF-ROAD~~ NONROAD DIESEL EQUIP-
 16 MENT.—

17 “(A) IN GENERAL.—The term ‘~~off-road~~
 18 *nonroad* diesel equipment’ means a vehicle, in-
 19 cluding covered equipment, that is—

20 “(i) powered by a nonroad diesel en-
 21 gine of not less than 50 horsepower; and

22 “(ii) not intended for highway use.

23 “(B) INCLUSIONS.—The term ‘~~off-road~~
 24 *nonroad* diesel equipment’ includes a backhoe,

1 bulldozer, compressor, crane, excavator, gener-
 2 ator, and similar equipment.

3 “(C) EXCLUSIONS.—The term ‘~~off-road~~
 4 *nonroad* diesel equipment’ does not include a lo-
 5 comotive or marine vessel.

6 “(6) ON-ROAD DIESEL EQUIPMENT.—The term
 7 ‘on-road diesel equipment’ means any self-propelled
 8 vehicle that—

9 “(A) operates on diesel fuel;

10 “(B) is designed to transport persons or
 11 property on a street or highway; and

12 “(C) has a gross vehicle weight rating of at
 13 least 14,000 pounds.

14 “(7) PM_{2.5} NONATTAINMENT OR MAINTENANCE
 15 AREA.—The term ‘PM_{2.5} nonattainment or mainte-
 16 nance area’ means a nonattainment or maintenance
 17 area designated under section 107(d)(6) of the
 18 Clean Air Act (42 U.S.C. 7407(d)(6)).

19 “(c) CRITERIA ELIGIBLE ACTIVITIES.—

20 “(1) DIESEL EXHAUST CONTROL TECH-
 21 NOLOGY.—For a diesel exhaust control technology,
 22 the technology shall be—

23 “(A) installed on a diesel engine or vehicle;

24 “(B) included in the list of verified or cer-
 25 tified technologies for non-road vehicles and

1 non-road engines (as defined in section 216 of
 2 the Clean Air Act (42 U.S.C. 7550)) published
 3 pursuant to subsection (f)(2) of section 149, as
 4 in effect on the day before the date of enact-
 5 ment of the MAP-21; and

6 “(C) certified by the installer as having
 7 been installed in accordance with the specifica-
 8 tions included on the list referred to in ~~sub-~~
 9 ~~clause (H)~~ *subparagraph (B)* for achieving a re-
 10 duction in PM_{2.5}.

11 “(2) DIESEL ENGINE UPGRADE.—For a diesel
 12 engine upgrade, the upgrade shall be performed on
 13 an engine that is—

14 “(A) rebuilt using new components that
 15 collectively appear as a system in the list of
 16 verified or certified technologies for non-road
 17 vehicles and non-road engines (as defined in
 18 section 216 of the Clean Air Act (42 U.S.C.
 19 7550)) published pursuant to subsection (f)(2)
 20 of section 149, as in effect on the day before
 21 the date of enactment of the MAP-21; and

22 “(B) certified by the installer to have been
 23 installed in accordance with the specifications
 24 included on the list referred to in ~~subclause (I)~~

1 *subparagraph (A)* for achieving a reduction in
2 PM_{2.5}.

3 “(3) DIESEL ENGINE REPOWER.—For a diesel
4 engine repower, the repower shall be conducted on a
5 new or remanufactured diesel engine that is—

6 “(A) installed as a replacement for an en-
7 gine used in the existing equipment, subject to
8 the condition that the replaced engine is—

9 “(i) used for scrap;

10 “(ii) permanently disabled; or

11 “(iii) returned to the original manu-
12 facturer for remanufacture to a PM level
13 that is at least equivalent to a Tier 2 emis-
14 sion standard; and

15 “(B) certified by the engine manufacturer
16 as meeting the emission standards for new vehi-
17 cles for the applicable engine power group es-
18 tablished by the Environmental Protection
19 Agency as in effect on the date on which the
20 engine is remanufactured.

21 “(4) IDLE REDUCTION CONTROL TECH-
22 NOLOGY.—For an idle reduction control technology,
23 the technology shall be—

24 “(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 (H)~~ *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

1 (a)) has been implemented, including the quantity of
 2 covered equipment serviced under those sections and
 3 the costs associated with servicing the covered equip-
 4 ment.

5 (2) INFORMATION FROM STATES.—The Sec-
 6 retary shall require States and recipients, as a con-
 7 dition of receiving amounts under this Act or under
 8 the provisions of any amendments made by this Act,
 9 to submit to the Secretary any information that the
 10 Secretary determines necessary to complete the re-
 11 port under paragraph (1).

12 (d) TECHNICAL AMENDMENT.—The analysis for
 13 chapter 3 of title 23, United States Code, is amended by
 14 adding at the end the following:

“330. Construction equipment and vehicles.”.

15 **SEC. 1512. USE OF DEBRIS FROM DEMOLISHED BRIDGES**
 16 **AND OVERPASSES.**

17 Section 1805(a) of the SAFETEA-LU (23 U.S.C.
 18 144 note; 119 Stat. 1459) is amended by striking “high-
 19 way bridge replacement and rehabilitation program under
 20 section 144” and inserting “national highway performance
 21 program under section 119”.

1 **SEC. 1513. EXTENSION OF PUBLIC TRANSIT VEHICLE EX-**
 2 **EMPTION FROM AXLE WEIGHT RESTRIC-**
 3 **TIONS.**

4 Section 1023(h)(1) of the Intermodal Surface Trans-
 5 portation Efficiency Act of 1991 (23 U.S.C. 127 note;
 6 Public Law 102–388) is amended by striking “, for the
 7 period beginning on October 6, 1992, and ending on Octo-
 8 ber 1, 2009,”.

9 **SEC. 1514. UNIFORM RELOCATION ASSISTANCE ACT**
 10 **AMENDMENTS.**

11 (a) MOVING AND RELATED EXPENSES.—Section 202
 12 of the Uniform Relocation Assistance and Real Property
 13 Acquisition Policies Act of 1970 (42 U.S.C. 4622) is
 14 amended—

15 (1) in subsection (a)(4) by striking “\$10,000”
 16 and inserting “\$25,000, as adjusted by regulation,
 17 in accordance with section 213(d)”; and

18 (2) in the second sentence of subsection (c) by
 19 striking “\$20,000” and inserting “\$40,000, as ad-
 20 justed by regulation, in accordance with section
 21 213(d)”.

22 (b) REPLACEMENT HOUSING FOR HOMEOWNERS.—
 23 The first sentence of section 203(a)(1) of the Uniform Re-
 24 location Assistance and Real Property Acquisition Policies
 25 Act of 1970 (42 U.S.C. 4623(a)(1)) is amended—

1 (1) by striking “\$22,500” and inserting
 2 “\$31,000, as adjusted by regulation, in accordance
 3 with 213(d),”; and

4 (2) by striking “one hundred and eighty days
 5 prior to” and inserting “90 days before”.

6 (c) REPLACEMENT HOUSING FOR TENANTS AND
 7 CERTAIN OTHERS.—Section 204 of the Uniform Reloca-
 8 tion Assistance and Real Property Acquisition Policies Act
 9 of 1970 (42 U.S.C. 4624) is amended—

10 (1) in the second sentence of subsection (a) by
 11 striking “\$5,250” and inserting “\$7,200, as ad-
 12 justed by regulation, in accordance with section
 13 213(d),”; and

14 (2) in the second sentence of subsection (b) by
 15 striking “, except” and all that follows through the
 16 end of the subsection and inserting a period.

17 (d) DUTIES OF LEAD AGENCY.—Section 213 of the
 18 Uniform Relocation Assistance and Real Property Acquisi-
 19 tion Policies Act of 1970 (42 U.S.C. 4633) is amended—

20 (1) in subsection (b)—

21 (A) in paragraph (2) by striking “and” at
 22 the end;

23 (B) in paragraph (3) by striking the period
 24 at the end and inserting “; and”; and

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

1 “(4) that each Federal agency that has pro-
2 grams or projects requiring the acquisition of real
3 property or causing a displacement from real prop-
4 erty subject to the provisions of this Act shall pro-
5 vide to the lead agency an annual summary report
6 the describes the activities conducted by the Federal
7 agency.”; and

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

9 “(d) ADJUSTMENT OF PAYMENTS.—The head of the
10 lead agency may adjust, by regulation, the amounts of re-
11 location payments provided under sections 202(a)(4),
12 202(c), 203(a), and 204(a) if the head of the lead agency
13 determines that cost of living, inflation, or other factors
14 indicate that the payments should be adjusted to meet the
15 policy objectives of this Act.”.

16 (e) AGENCY COORDINATION.—Title II of the Uni-
17 form Relocation Assistance and Real Property Acquisition
18 Policies Act of 1970 is amended by inserting after section
19 213 (42 U.S.C. 4633) the following:

20 **“SEC. 214. AGENCY COORDINATION.**

21 “(a) AGENCY CAPACITY.—Each Federal agency re-
22 sponsible for funding or carrying out relocation and acqui-
23 sition activities shall have adequately trained personnel
24 and such other resources as are necessary to manage and

1 oversee the relocation and acquisition program of the Fed-
2 eral agency in accordance with this Act.

3 “(b) INTERAGENCY AGREEMENTS.—Not later than 1
4 year after the date of enactment of this section, each Fed-
5 eral agency responsible for funding relocation and acquisi-
6 tion activities (other than the agency serving as the lead
7 agency) shall enter into a memorandum of understanding
8 with the lead agency that—

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

14 “(2) addresses ways in which the lead agency
15 may provide assistance and coordination to the Fed-
16 eral agency relating to compliance with the Act on
17 a program or project basis; and

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

21 “(c) INTERAGENCY PAYMENTS.—

22 “(1) IN GENERAL.—For the fiscal year that be-
23 gins 1 year after the date of enactment of this sec-
24 tion, and each fiscal year thereafter, each Federal
25 agency responsible for funding relocation and acqui-

1 sition activities (other than the agency serving as the
 2 lead agency) shall transfer to the lead agency for the
 3 fiscal year, such funds as are necessary, but not less
 4 than \$35,000, to support the training, assistance,
 5 and coordination activities of the lead agency de-
 6 scribed in subsection (b).

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

14 (f) COOPERATION WITH FEDERAL AGENCIES.—Sec-
 15 tion 308 of title 23, United States Code, is amended by
 16 striking subsection (a) and inserting the following:

17 “(a) AUTHORIZED ACTIVITIES.—

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

24 “(2) INCLUSIONS.—Services authorized under
 25 paragraph (1) may include activities authorized

1 under section 214 of the Uniform Relocation Assist-
 2 ance and Real Property Acquisition Policies Act of
 3 1970.

4 “(3) REIMBURSEMENT.—Reimbursement for
 5 services carried out under this subsection (including
 6 depreciation on engineering and road-building equip-
 7 ment) shall be credited to the applicable appropria-
 8 tion.”.

9 (g) EFFECTIVE DATES.—

10 (1) IN GENERAL.—Except as provided in para-
 11 graph (2), the amendments made by this section
 12 shall take effect on the date of enactment of this
 13 Act.

14 (2) EXCEPTION.—The amendments made by
 15 subsections (a) through (c) shall take effect 2 years
 16 after the date of enactment of this Act.

17 **SEC. 1515. USE OF YOUTH SERVICE AND CONSERVATION**
 18 **CORPS.**

19 (a) IN GENERAL.—The Secretary shall encourage the
 20 States and regional transportation planning agencies to
 21 enter into contracts and cooperative agreements with
 22 Healthy Futures Corps under section 122(a)(2) of the Na-
 23 tional and Community Service Act of 1990 (42 U.S.C.
 24 12572(a)(2)) or qualified urban youth corps (as defined

1 in section 106(c) of the National and Community Service
2 Trust Act of 1993 (42 U.S.C. 12656(c)) to perform—

3 (1) appropriate projects eligible under sections
4 162, 206, and 217 of title 23, United States Code;

5 (2) appropriate transportation enhancement ac-
6 tivities (as defined in section 101(a) of such title);

7 (3) appropriate transportation byway, trail, or
8 bicycle and pedestrian projects under section 204 of
9 such title; and

10 (4) appropriate safe routes to school projects
11 under section 1404 of the SAFETEA-LU (23
12 U.S.C. 402 note; 119 Stat. 1228).

13 (b) REQUIREMENTS.—Under any contract or cooper-
14 ative agreement entered into with a Healthy Futures
15 Corps or qualified urban youth corps under this section,
16 the Secretary—

17 (1) shall establish the amount of a living allow-
18 ance or rate of pay for each participant in such
19 corps—

20 (A) at such amount or rate as is required
21 under State law in a State with such a require-
22 ment; or

23 (B) for corps in a State not described in
24 subparagraph (A), at such amount or rate as
25 determined by the Secretary, not to exceed the

1 maximum living allowance authorized by section
 2 140 of the National and Community Service
 3 Act of 1990 (42 U.S.C. 12594); and

4 (2) shall not subject such corps to the require-
 5 ments of section 112 of title 23, United States Code.

6 **SEC. 1516. CONSOLIDATION OF PROGRAMS; REPEAL OF OB-**
 7 **SOLETE PROVISIONS.**

8 (a) CONSOLIDATION OF PROGRAMS.—From adminis-
 9 trative funds made available under section 104(a) of title
 10 23, United States Code, not less than ~~\$10,000,000 for~~
 11 ~~each fiscal year~~ *\$15,000,000 for each of fiscal years 2012*
 12 *and 2013* shall be made available for the following activi-
 13 ties:

14 (1) To carry out the operation lifesaver pro-
 15 gram—

16 (A) to provide public information and edu-
 17 cation programs to help prevent and reduce
 18 motor vehicle accidents, injuries, and fatalities;
 19 and

20 (B) to improve driver performance at rail-
 21 way-highway crossings.

22 (2) To operate the national work zone safety in-
 23 formation clearinghouse authorized by section
 24 358(b)(2) of the National Highway System Designa-

1 tion Act of 1995 (23 U.S.C. 401 note; 109 Stat.
2 625)

3 (3) To operate a public road safety clearing-
4 house in accordance with section 1411(a) of the
5 SAFETEA–LU (23 U.S.C. 402 note; 119 Stat.
6 1234).

7 (4) To operate a bicycle and pedestrian safety
8 clearinghouse in accordance with section 1411(b) of
9 the SAFETEA–LU (23 U.S.C. 402 note; 119 Stat.
10 1234).

11 (5) To operate a national safe routes to school
12 clearinghouse in accordance with section 1404(g) of
13 the SAFETEA–LU (23 U.S.C. 402 note; 119 Stat.
14 1229).

15 (6) To provide work zone safety grants in ac-
16 cordance with subsections (a) and (b) of section
17 1409 of the SAFETEA–LU (23 U.S.C. 401 note;
18 119 Stat. 1232).

19 (7) *To provide grants to prohibit racial profiling*
20 *in accordance with section 1906 of the SAFETEA-LU*
21 *(23 U.S.C. 402 note; 119 Stat. 1468).*

22 (b) REPEALS.—Sections 105, 110, 117, 124, 147,
23 151, 155, 160, and 303 of title 23, United States Code,
24 are repealed.

25 (c) CONFORMING AMENDMENTS.—

1 (1) TITLE ANALYSIS.—The analysis for title 23,
 2 United States Code, is amended by striking the
 3 items relating to sections 105, 110, 117, 124, 147,
 4 152, 155, 160, and 303 of that title.

5 (2) SECTION 118.—Section 118 of such title is
 6 amended—

7 (A) in subsection (b)—

8 (i) by striking paragraph (1) and all
 9 that follows through the heading of para-
 10 graph (2); and

11 (ii) by striking “(other than for Inter-
 12 state construction)”; ~~and~~

13 (B) by striking subsection (c); and

14 (C) by redesignating subsections (d) and
 15 (e) as subsections (c) and (d), respectively.

16 (3) SECTION 130.—Section 130 of such title is
 17 amended—

18 (A) by striking subsections (e) through (h);

19 (B) by redesignating subsection (i) as sub-
 20 section (e);

21 (C) by striking subsections (j) and (k);

22 (D) by redesignating subsection (l) as sub-
 23 section (f);

24 (E) in subsection (e) (as so redesignated)
 25 by striking “this section” ~~the second place it~~

1 ~~appears~~ *the second place it appears* and insert-
 2 ing “section 104(b)(3)”; and

3 (F) in subsection (f) (as so redesignated)
 4 by striking paragraphs (3) and (4).

5 (4) SECTION 142.—Section 142 of title 23,
 6 United States Code, is amended—

7 (A) in subsection (a)—

8 (i) in paragraph (1)—

9 (I) by striking “motor vehicles
 10 (other than rail)” and inserting
 11 “buses”;

12 (II) by striking “(hereafter in
 13 this section referred to as ‘buses’)”;

14 (III) by striking “Federal-aid
 15 systems” and inserting “Federal-aid
 16 highways”; and

17 (IV) by striking “Federal-aid sys-
 18 tem” and inserting “Federal-aid high-
 19 way”; and

20 (ii) in paragraph (2)—

21 (I) by striking “as a project on
 22 the the surface transportation pro-
 23 gram for”; and

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

4 (B) in subsection (b) by striking
 5 “104(b)(4)” and inserting “104(b)(1)”;

6 (C) in subsection (c)—

7 (i) by striking “system” in each place
 8 it appears and inserting “highway”; and

9 (ii) by striking “highway facilities”
 10 and inserting “highways eligible under the
 11 program that is the source of the funds”;

12 (D) in subsection (e)(2)—

13 (i) by striking “Notwithstanding sec-
 14 tion 209(f)(1) of the Highway Revenue Act
 15 of 1956, the Highway Trust Fund shall be
 16 available for making expenditures to meet
 17 obligations resulting from projects author-
 18 ized by subsection (a)(2) of this section
 19 and such projects” and inserting “Projects
 20 authorized by subsection (a)(2)”;

21 (ii) striking “on the surface transpor-
 22 tation program” and inserting “under the
 23 transportation mobility program”; and

24 (E) in subsection (f) by striking “exits”
 25 and inserting “exists”.

1 (5) SECTION 145.—Section 145(b) of title 23,
 2 United States Code, is amended by striking “section
 3 117 of this title,”.

4 (6) SECTION 322.—Section 322(h)(3) of title
 5 23, United States Code, is amended by striking
 6 “surface transportation program” and inserting “the
 7 transportation mobility program”.

8 (d) *CERTAIN ALLOCATIONS.*—*Notwithstanding any*
 9 *other provision of law, any unobligated balances of amounts*
 10 *required to be allocated to a State by section 1307(d)(1)*
 11 *of the SAFETEA–LU (23 U.S.C. 322 note; 119 Stat. 1217;*
 12 *122 Stat. 1577) shall instead be made available to such*
 13 *State for any purpose eligible under section 133(c) of title*
 14 *23, United States Code.*

15 **SEC. 1517. RESCISSIONS.**

16 (a) FISCAL YEAR 2012.—

17 (1) Not later than 30 days after the date of en-
 18 actment of this Act, of the unobligated balances
 19 available under sections 144(f) and 320 of title 23,
 20 United States Code, section 147 of Public Law 95–
 21 599 (23 U.S.C. 144 note; 92 Stat. 2714), section
 22 9(c) of Public Law 97–134 (95 Stat. 1702), section
 23 149 of Public Law 100–17 (101 Stat. 181), sections
 24 1006, 1069, 1103, 1104, 1105, 1106, 1107, 1108,
 25 6005, 6015, and 6023 of Public Law 102–240 (105

1 Stat. 1914), section 1602 of Public Law 105–178
2 (112 Stat. 256), sections 1301, 1302, 1702, and
3 1934 of Public Law 109–59 (119 Stat. 1144), and
4 of other funds apportioned to each State under
5 chapter 1 of title 23, United States Code, prior to
6 the date of enactment of this Act, \$2,391,000,000
7 are permanently rescinded.

8 (2) In administering the rescission required
9 under this subsection, the Secretary shall allow each
10 State to determine the amount of the required re-
11 scission to be drawn from the programs to which the
12 rescission applies.

13 (b) FISCAL YEAR 2013.—

14 (1) On October 1, 2012, of the unobligated bal-
15 ances of funds apportioned or allocated on or before
16 that date to each State under chapter 1 of title 23,
17 United States Code, \$3,054,000,000 are perma-
18 nently rescinded.

19 (2) Notwithstanding section 1132 of the Energy
20 Independence and Security Act of 2007 (Public Law
21 110–140; 121 Stat. 1763), in administering the re-
22 scission required under this subsection, the Sec-
23 retary shall allow each State to determine the
24 amount of the required rescission to be drawn from
25 the programs to which the rescission applies.

1 **SEC. 1518. STATE AUTONOMY FOR CULVERT PIPE SELEC-**
 2 **TION.**

3 Not later than 180 days after the date of enactment
 4 of this Act, the Secretary shall modify section 635.411 of
 5 title 23, Code of Federal Regulations (as in effect on the
 6 date of enactment of this Act), to ensure that States shall
 7 have the autonomy to determine culvert and storm sewer
 8 material types to be included in the construction of a
 9 project on a Federal-aid highway.

10 **SEC. 1519. EFFECTIVE AND SIGNIFICANT PERFORMANCE**
 11 **MEASURES.**

12 (a) *LIMITED NUMBER OF PERFORMANCE MEAS-*
 13 *URES.—In implementing provisions of this Act (including*
 14 *the amendments made by this Act) and title 23, United*
 15 *States Code (other than chapter 4 of that title), that author-*
 16 *ize the Secretary to develop performance measures, the Sec-*
 17 *retary shall limit the number of performance measures es-*
 18 *tablished to the most significant and effective measures.*

19 (b) *DIFFERENT APPROACHES FOR URBAN AND RURAL*
 20 *AREAS.—In the development and implementation of any*
 21 *performance target, a State may, as appropriate, provide*
 22 *for different performance targets for urbanized and rural*
 23 *areas.*

24 **SEC. 1520. REQUIREMENTS FOR ELIGIBLE BRIDGE**
 25 **PROJECTS.**

26 (a) *DEFINITIONS.—In this section:*

1 (1) *ELIGIBLE BRIDGE PROJECT.*—The term “eli-
 2 gible bridge project” means a project for construction,
 3 alteration, or repair work on a bridge or overpass
 4 funded directly by, or provided other assistance
 5 through, the Federal Government.

6 (2) *QUALIFIED TRAINING PROGRAM.*—The term
 7 “qualified training program” means a training pro-
 8 gram that—

9 (A)(i) is certified by the Secretary of Labor;
 10 and

11 (ii) with respect to an eligible bridge project
 12 located in an area in which the Secretary of
 13 Labor determines that a training program does
 14 not exist, is registered with—

15 (I) the Department of Labor; or

16 (II) a State agency recognized by the
 17 Department of Labor for purposes of a Fed-
 18 eral training program; or

19 (B) is a corrosion control, mitigation and
 20 prevention personnel training program that is
 21 offered by an organization whose standards are
 22 recognized and adopted in other Federal or State
 23 Departments of Transportation.

24 (3) *SECRETARY.*—The term “Secretary” means
 25 the Secretary of Transportation.

1 (b) *ELIGIBILITY REQUIREMENTS.*—

2 (1) *IN GENERAL.*—*Each contractor and subcon-*
 3 *tractor that carries out any aspect of an eligible*
 4 *bridge project described in paragraph (2) shall—*

5 (A) *before entering into the applicable con-*
 6 *tract, be certified by the Secretary or a State, in*
 7 *accordance with paragraph (4), as meeting the*
 8 *eligibility requirements described in paragraph*
 9 *(3); and*

10 (B) *remain certified as described in sub-*
 11 *paragraph (A) while carrying out the applicable*
 12 *aspect of the eligible bridge project.*

13 (2) *DESCRIPTION OF ASPECTS OF ELIGIBLE*
 14 *BRIDGE PROJECTS.*—*An aspect of an eligible bridge*
 15 *project referred to in paragraph (1) is—*

16 (A) *surface preparation or coating applica-*
 17 *tion on bridge steel of an eligible bridge project;*

18 (B) *removal of a lead-based or other haz-*
 19 *ardous coating from bridge steel of an existing*
 20 *eligible bridge project;*

21 (C) *shop painting of structural steel fab-*
 22 *ricated for installation on bridge steel of an eli-*
 23 *gible bridge project; and*

1 (D) the design, application, installation,
 2 and maintenance of a cathodic protection sys-
 3 tem.

4 (3) *REQUIREMENTS.*—The eligibility require-
 5 ments referred to in paragraph (1) are that a con-
 6 tractor or subcontractor shall—

7 (A) as determined by the Secretary—

8 (i) use corrosion mitigation and pre-
 9 vention methods to preserve relevant bridges
 10 and overpasses, taking into account—

11 (I) material selection;

12 (II) coating considerations;

13 (III) cathodic protection consider-
 14 ations;

15 (IV) design considerations for cor-
 16 rosion; and

17 (V) trained applicators;

18 (ii) use best practices—

19 (I) to prevent environmental deg-
 20 radation; and

21 (II) to ensure careful handling of
 22 all hazardous materials; and

23 (iii) demonstrate a history of employ-
 24 ing industry-respected inspectors to ensure

1 *funds are used in the interest of affected*
2 *taxpayers; and*

3 *(B) demonstrate a history of compliance*
4 *with applicable requirements of the Occupational*
5 *Safety and Health Administration, as deter-*
6 *mined by the Secretary of Labor.*

7 (4) *STATE CONSULTATION.—In determining*
8 *whether to certify a contractor or subcontractor under*
9 *paragraph (1)(A), a State shall consult with engi-*
10 *neers and other experts trained in accordance with*
11 *subsection (a)(2) specializing in corrosion control,*
12 *mitigation, and prevention methods.*

13 (c) *OPTIONAL TRAINING PROGRAM.—As a condition of*
14 *entering into a contract for an eligible bridge project, each*
15 *contractor and subcontractor that performs construction, al-*
16 *teration, or repair work on a bridge or overpass for the eli-*
17 *gible bridge project may provide, or make available, train-*
18 *ing, through a qualified training program, for each appli-*
19 *cable craft or trade classification of employees that the con-*
20 *tractor or subcontractor intends to employ to carry out as-*
21 *pects of eligible bridge projects as described in subsection*
22 *(b)(2).*

1 **TITLE II—RESEARCH AND**
2 **EDUCATION**
3 **Subtitle A—Funding**

4 **SEC. 2101. AUTHORIZATION OF APPROPRIATIONS.**

5 (a) IN GENERAL.—The following amounts are au-
6 thorized to be appropriated out of the Highway Trust
7 Fund (other than the Mass Transit Account):

8 (1) HIGHWAY RESEARCH AND DEVELOPMENT
9 PROGRAM.—To carry out sections 503(b), 503(d),
10 and 509 of title 23, United States Code,
11 \$90,000,000 for each of fiscal years 2012 and 2013.

12 (2) TECHNOLOGY AND INNOVATION DEPLOY-
13 MENT PROGRAM.—To carry out section 503(c) of
14 title 23, United States Code, \$90,000,000 for each
15 of fiscal years 2012 and 2013.

16 (3) TRAINING AND EDUCATION.—To carry out
17 section 504 of title 23, United States Code,
18 \$24,000,000 for each of fiscal years 2012 and 2013.

19 (4) INTELLIGENT TRANSPORTATION SYSTEMS
20 PROGRAM.—To carry out sections 512 through 518
21 of title 23, United States Code, \$100,000,000 for
22 each of fiscal years 2012 and 2013.

23 (5) UNIVERSITY TRANSPORTATION CENTERS
24 PROGRAM.—To carry out section 5505 of title 49,

1 United States Code, \$70,000,000 for each of fiscal
2 years 2012 and 2013.

3 (6) BUREAU OF TRANSPORTATION STATIS-
4 TICS.—To carry out chapter 65 of title 49, United
5 States Code, \$26,000,000 for each of fiscal years
6 2012 and 2013.

7 (b) APPLICABILITY OF TITLE 23, UNITED STATES
8 CODE.—Funds authorized to be appropriated by sub-
9 section (a) shall—

10 (1) be available for obligation in the same man-
11 ner as if those funds were apportioned under chap-
12 ter 1 of title 23, United States Code, except that the
13 Federal share of the cost of a project or activity car-
14 ried out using those funds shall be 80 percent, un-
15 less otherwise expressly provided by this Act (includ-
16 ing the amendments by this Act) or otherwise deter-
17 mined by the Secretary; and

18 (2) remain available until expended and not be
19 transferable.

20 **Subtitle B—Research, Technology,**
21 **and Education**

22 **SEC. 2201. RESEARCH, TECHNOLOGY, AND EDUCATION.**

23 Section 501 of title 23, United States Code, is
24 amended—

1 (1) by redesignating paragraph (2) as para-
2 graph (8);

3 (2) by inserting after paragraph (1) the fol-
4 lowing:

5 “(2) INCIDENT.—The term ‘incident’ means a
6 crash, natural disaster, workzone activity, special
7 event, or other emergency road user occurrence that
8 adversely affects or impedes the normal flow of traf-
9 fic.

10 “(3) INNOVATION LIFECYCLE.—The term ‘inno-
11 vation lifecycle’ means the process of innovating
12 through—

13 “(A) the identification of a need;

14 “(B) the establishment of the scope of re-
15 search to address that need;

16 “(C) setting an agenda;

17 “(D) carrying out research, development,
18 deployment, and testing of the resulting tech-
19 nology or innovation; and

20 “(E) carrying out an evaluation of the im-
21 pact of the resulting technology or innovation.

22 “(4) INTELLIGENT TRANSPORTATION INFRA-
23 STRUCTURE.—The term ‘intelligent transportation
24 infrastructure’ means fully integrated public sector

1 intelligent transportation system components, as de-
2 fined by the Secretary.

3 “(5) INTELLIGENT TRANSPORTATION SYS-
4 TEM.—The terms ‘intelligent transportation system’
5 and ‘ITS’ mean electronics, photonics, communica-
6 tions, or information processing used singly or in
7 combination to improve the efficiency or safety of a
8 surface transportation system.

9 “(6) NATIONAL ARCHITECTURE.—For purposes
10 of this chapter, the term ‘national architecture’
11 means the common framework for interoperability
12 that defines—

13 “(A) the functions associated with intel-
14 ligent transportation system user services;

15 “(B) the physical entities or subsystems
16 within which the functions reside;

17 “(C) the data interfaces and information
18 flows between physical subsystems; and

19 “(D) the communications requirements as-
20 sociated with the information flows.

21 “(7) PROJECT.—The term ‘project’ means an
22 undertaking to research, develop, or operationally
23 test intelligent transportation systems or any other
24 undertaking eligible for assistance under this chap-
25 ter.”; and

1 (3) by inserting after paragraph (8) (as so re-
2 designated) the following:

3 “(9) STANDARD.—The term ‘standard’ means a
4 document that—

5 “(A) contains technical specifications or
6 other precise criteria for intelligent transpor-
7 tation systems that are to be used consistently
8 as rules, guidelines, or definitions of character-
9 istics so as to ensure that materials, products,
10 processes, and services are fit for the intended
11 purposes of the materials, products, processes,
12 and services; and

13 “(B) may support the national architecture
14 and promote—

15 “(i) the widespread use and adoption
16 of intelligent transportation system tech-
17 nology as a component of the surface
18 transportation systems of the United
19 States; and

20 “(ii) interoperability among intelligent
21 transportation system technologies imple-
22 mented throughout the States.”.

1 **SEC. 2202. SURFACE TRANSPORTATION RESEARCH, DEVEL-**
2 **OPMENT, AND TECHNOLOGY.**

3 (a) SURFACE TRANSPORTATION RESEARCH, DEVEL-
4 OPMENT, AND TECHNOLOGY.—Section 502 of title 23,
5 United States Code, is amended—

6 (1) in the section heading by inserting “, **DE-**
7 **VELOPMENT, AND TECHNOLOGY**” after “**SUR-**
8 **FACE TRANSPORTATION RESEARCH**”;

9 (2) in subsection (a)—

10 (A) by redesignating paragraphs (1)
11 through (8) as paragraphs (2) through (9), re-
12 spectively;

13 (B) by inserting before paragraph (2) (as
14 redesignated by subparagraph (A)) the fol-
15 lowing:

16 “(1) APPLICABILITY.—The research, develop-
17 ment, and technology provisions of this section shall
18 apply throughout this chapter.”;

19 (C) in paragraph (2) (as redesignated by
20 subparagraph (A))—

21 (i) by inserting “within the innovation
22 lifecycle” after “activities”; and

23 (ii) by inserting “marketing and com-
24 munications, impact analysis,” after
25 “training,”;

1 (D) in paragraph (3) (as redesignated by
2 subparagraph (A))—

3 (i) in subparagraph (B) by striking
4 “supports research in which there is a
5 clear public benefit and” and inserting
6 “delivers a clear public benefit and occurs
7 where”;

8 (ii) in subparagraph (C) by striking
9 “or” after the semicolon;

10 (iii) by redesignating subparagraph
11 (D) as subparagraph (H); and

12 (iv) by inserting after subparagraph
13 (C) the following:

14 “(D) meets and addresses current or
15 emerging needs;

16 “(E) presents the best means to align re-
17 sources with multiyear plans and priorities;

18 “(F) ensures the coordination of highway
19 research and technology transfer activities, in-
20 cluding through activities performed by univer-
21 sity transportation centers;

22 “(G) educates current and future transpor-
23 tation professionals; or”;

1 (E) in paragraph (4) (as redesignated by
2 subparagraph (A)) by striking subparagraphs
3 (B) through (D) and inserting the following:

4 “(B) partner with State highway agencies
5 and other stakeholders as appropriate, includ-
6 ing international entities, to facilitate research
7 and technology transfer activities;

8 “(C) communicate the results of ongoing
9 and completed research;

10 “(D) lead efforts to coordinate national
11 emphasis areas of highway research, technology,
12 and innovation deployment;

13 “(E) leverage partnerships with industry,
14 academia, and international entities; and

15 “(F) conduct, facilitate, and support train-
16 ing and education of current and future trans-
17 portation professionals.”;

18 (F) in paragraph (5)(C) (as redesignated
19 by subparagraph (A)) by striking “policy and
20 planning” and inserting “all highway objectives
21 seeking to improve the performance of the
22 transportation system”;

23 (G) in paragraph (6) (as redesignated by
24 subparagraph (A)) in the second sentence, by

1 inserting “tribal governments,” after “local gov-
 2 ernments,”; and

3 (H) in paragraph (8) (as redesignated by
 4 subparagraph (A))—

5 (i) in the first sentence, by striking
 6 “To the maximum” and inserting the fol-
 7 lowing:

8 “(A) IN GENERAL.—To the maximum”;

9 (ii) in the second sentence, by striking
 10 “Performance measures” and inserting the
 11 following:

12 “(B) PERFORMANCE MEASURES.—Per-
 13 formance measures”;

14 (iii) in the third sentence, by striking
 15 “All evaluations” and inserting the fol-
 16 lowing:

17 “(D) AVAILABILITY OF EVALUATIONS.—All
 18 evaluations under this paragraph”; and

19 (iv) by inserting after subparagraph
 20 (B) the following:

21 “(C) PROGRAM PLAN.—To the maximum
 22 extent practicable, each program pursued under
 23 this chapter shall be part of a data-driven, out-
 24 come-oriented program plan.”;

25 (3) in subsection (b)—

1 (A) in paragraph (4) by striking “surface
2 transportation research and technology develop-
3 ment strategic plan developed under section
4 508” and inserting “the transportation research
5 and development strategic plan of the Sec-
6 retary”;

7 (B) in paragraph (5) by striking “section”
8 each place it appears and inserting “chapter”;

9 (C) in paragraph (6) by adding at the end
10 the following:

11 “(C) TRANSFER OF AMOUNTS AMONG
12 STATES OR TO FEDERAL HIGHWAY ADMINIS-
13 TRATION.—The Secretary may, at the request
14 of a State, transfer amounts apportioned or al-
15 located to that State under this chapter to an-
16 other State or the Federal Highway Adminis-
17 tration to fund research, development, and tech-
18 nology transfer activities of mutual interest on
19 a pooled funds basis.

20 “(D) TRANSFER OF OBLIGATION AUTHOR-
21 ITY.—Obligation authority for amounts trans-
22 ferred under this subsection shall be disbursed
23 in the same manner and for the same amount
24 as provided for the project being transferred.”;
25 and

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

2 “(7) PRIZE COMPETITIONS.—

3 “(A) IN GENERAL.—The Secretary may
4 carry out prize competitions to award competi-
5 tive prizes for surface transportation innova-
6 tions that have the potential for application to
7 the research and technology objectives and ac-
8 tivities of the Federal Highway Administration
9 to improve system performance.

10 “(B) REQUIREMENTS.—

11 “(i) IN GENERAL.—The Secretary
12 shall use a competitive process for the se-
13 lection of prize recipients and shall widely
14 advertise and solicit participation in prize
15 competitions under this paragraph.

16 “(ii) REGISTRATION REQUIRED.—No
17 individual or entity shall participate in a
18 prize competition under this paragraph un-
19 less the individual or entity has registered
20 with the Secretary in accordance with the
21 eligibility requirements established by the
22 Secretary under clause (iii).

23 “(iii) MINIMUM REQUIREMENTS.—The
24 Secretary shall establish eligibility require-
25 ments for participation in each prize com-

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

1 participation in the competition,
 2 including all claims, whether
 3 through negligence or otherwise,
 4 except in the case of willful mis-
 5 conduct, for—

6 “(AA) injury, death,
 7 damage, or loss of property;
 8 or

9 “(BB) loss of revenue
 10 or profits, whether direct,
 11 indirect, or consequential;
 12 and

13 “(III) require any individual or
 14 entity that registers for a prize com-
 15 petition to waive all claims against
 16 any non-Federal entity operating or
 17 managing the prize competition, such
 18 as a private contractor managing
 19 competition activities, to the extent
 20 that the Secretary believes is nec-
 21 essary to protect the interests of the
 22 Federal Government.

23 “(C) RELATIONSHIP TO OTHER AUTHOR-
 24 ITY.—The Secretary may exercise the authority
 25 in this section in conjunction with, or in addi-

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 “(1) carry out research, development, and de-
 2 ployment activities that encompass the entire inno-
 3 vation lifecycle; and

4 “(2) ensure that all research carried out under
 5 this section aligns with the transportation research
 6 and development strategic plan of the Secretary.

7 “(b) HIGHWAY RESEARCH AND DEVELOPMENT PRO-
 8 GRAM.—

9 “(1) OBJECTIVES.—In carrying out the high-
 10 way research and development program, the Sec-
 11 retary, to address current and emerging highway
 12 transportation needs, shall—

13 “(A) identify research topics;

14 “(B) coordinate domestic and international
 15 research and development activities;

16 “(C) carry out research, testing, and eval-
 17 uation activities; and

18 “(D) provide technology transfer and tech-
 19 nical assistance.

20 “(2) CONTENTS.—Research and development
 21 activities carried out under this section may include
 22 any of the following activities:

23 “(A) IMPROVING HIGHWAY SAFETY.—

24 “(i) IN GENERAL.—The Secretary
 25 shall carry out research and development

1 activities from an integrated perspective to
2 establish and implement systematic meas-
3 ures to improve highway safety.

4 “(ii) OBJECTIVES.—In carrying out
5 this subparagraph the Secretary shall
6 carry out research and development activi-
7 ties—

8 “(I) to achieve greater long-term
9 safety gains;

10 “(II) to reduce the number of fa-
11 talities and serious injuries on public
12 roads;

13 “(III) to fill knowledge gaps that
14 limit the effectiveness of research;

15 “(IV) to support the development
16 and implementation of State strategic
17 highway safety plans;

18 “(V) to advance improvements
19 in, and use of, performance prediction
20 analysis for decisionmaking; and

21 “(VI) to expand technology
22 transfer to partners and stakeholders.

23 “(iii) CONTENTS.—Research and tech-
24 nology activities carried out under this
25 subparagraph may include—

- 1 “(I) safety assessments and deci-
- 2 sionmaking tools;
- 3 “(II) data collection and analysis;
- 4 “(III) crash reduction projec-
- 5 tions;
- 6 “(IV) low-cost safety counter-
- 7 measures;
- 8 “(V) innovative operational im-
- 9 provements and designs of roadway
- 10 and roadside features;
- 11 “(VI) evaluation of counter-
- 12 measure costs and benefits;
- 13 “(VII) development of tools for
- 14 projecting impacts of safety counter-
- 15 measures;
- 16 “(VIII) rural road safety meas-
- 17 ures;
- 18 “(IX) safety measures for vulner-
- 19 able road users, including bicyclists
- 20 and pedestrians;
- 21 “(X) safety policy studies;
- 22 “(XI) human factors studies and
- 23 measures;
- 24 “(XII) safety technology deploy-
- 25 ment;

1 “(XIII) safety workforce profes-
2 sional capacity building initiatives;

3 “(XIV) safety program and proc-
4 ess improvements; and

5 “(XV) tools and methods to en-
6 hance safety performance, including
7 achievement of statewide safety per-
8 formance targets.

9 “(B) IMPROVING INFRASTRUCTURE INTEG-
10 RITY.—

11 “(i) IN GENERAL.—The Secretary
12 shall carry out and facilitate highway in-
13 frastructure research and development ac-
14 tivities—

15 “(I) to maintain infrastructure
16 integrity;

17 “(II) to meet user needs; and

18 “(III) to link Federal transpor-
19 tation investments to improvements in
20 system performance.

21 “(ii) OBJECTIVES.—In carrying out
22 this subparagraph, the Secretary shall
23 carry out research and development activi-
24 ties—

1 “(I) to reduce the number of fa-
2 talities attributable to infrastructure
3 design characteristics and work zones;

4 “(II) to improve the safety and
5 security of highway infrastructure;

6 “(III) to increase the reliability
7 of lifecycle performance predictions
8 used in infrastructure design, con-
9 struction, and management;

10 “(IV) to improve the ability of
11 transportation agencies to deliver
12 projects that meet expectations for
13 timeliness, quality, and cost;

14 “(V) to reduce user delay attrib-
15 utable to infrastructure system per-
16 formance, maintenance, rehabilitation,
17 and construction;

18 “(VI) to improve highway condi-
19 tion and performance through in-
20 creased use of design, materials, con-
21 struction, and maintenance innova-
22 tions;

23 “(VII) to reduce the lifecycle en-
24 vironmental impacts of highway infra-
25 structure through innovations in de-

1 sign, construction, operation, preser-
2 vation, and maintenance; and

3 “(VIII) to study vulnerabilities of
4 the transportation system to seismic
5 activities and extreme events and
6 methods to reduce those
7 vulnerabilities.

8 “(iii) CONTENTS.—Research and tech-
9 nology activities carried out under this
10 subparagraph may include—

11 “(I) long-term infrastructure per-
12 formance programs addressing pave-
13 ments, bridges, tunnels, and other
14 structures;

15 “(II) short-term and accelerated
16 studies of infrastructure performance;

17 “(III) research to develop more
18 durable infrastructure materials and
19 systems;

20 “(IV) advanced infrastructure de-
21 sign methods;

22 “(V) accelerated highway con-
23 struction;

24 “(VI) performance-based speci-
25 fications;

1 “(VII) construction and materials
2 quality assurance;

3 “(VIII) comprehensive and inte-
4 grated infrastructure asset manage-
5 ment;

6 “(IX) infrastructure safety assur-
7 ance;

8 “(X) highway infrastructure se-
9 curity;

10 “(XI) sustainable infrastructure
11 design and construction;

12 “(XII) infrastructure rehabilita-
13 tion and preservation techniques, in-
14 cluding techniques to rehabilitate and
15 preserve historic infrastructure;

16 “(XIII) hydraulic, geotechnical,
17 and aerodynamic aspects of infra-
18 structure;

19 “(XIV) improved highway con-
20 struction technologies and practices;

21 “(XV) improved tools, tech-
22 nologies, and models for infrastruc-
23 ture management, including assess-
24 ment and monitoring of infrastructure
25 condition;

1 “(XVI) studies to improve flexi-
 2 bility and resiliency of infrastructure
 3 systems to withstand climate varia-
 4 bility;

5 “(XVII) studies of infrastructure
 6 resilience and other adaptation meas-
 7 ures; and

8 “(XVIII) maintenance of seismic
 9 research activities, including research
 10 carried out in conjunction with other
 11 Federal agencies to study the vulner-
 12 ability of the transportation system to
 13 seismic activity and methods to reduce
 14 that vulnerability.

15 “(iv) LIFECYCLE COSTS ANALYSIS
 16 STUDY.—

17 “(I) IN GENERAL.—In this
 18 clause, the term ‘lifecycle costs anal-
 19 ysis’ means a process for evaluating
 20 the total economic worth of a usable
 21 project segment by analyzing initial
 22 costs and discounted future costs,
 23 such as maintenance, user, recon-
 24 struction, rehabilitation, restoring,

1 and resurfacing costs, over the life of
2 the project segment.

3 “(II) STUDY.—The Comptroller
4 General shall conduct a study of the
5 best practices for calculating lifecycle
6 costs for federally funded highway
7 projects. At a minimum, this study
8 shall include a thorough literature re-
9 view and a survey of current lifecycle
10 cost practices of State departments of
11 transportation.

12 “(III) CONSULTATION.—In car-
13 rying out this study, the Comptroller
14 shall consult with, at a minimum—

15 “(aa) the American Associa-
16 tion of State Highway and
17 Transportation Officials;

18 “(bb) appropriate experts in
19 the field of lifecycle cost analysis;
20 and

21 “(cc) appropriate industry
22 experts and research centers.

23 “(IV) REPORT.—Not later than
24 1 year after the date of enactment of
25 the MAP-21, the Comptroller General

1 shall submit to the Committee on En-
 2 vironment and Public Works of the
 3 Senate and the Committee on Trans-
 4 portation and Infrastructure of the
 5 House of Representatives a report on
 6 the results of the study which shall in-
 7 clude, but is not limited to—

8 “(aa) a summary of the lat-
 9 est research on lifecycle cost
 10 analysis; and

11 “(bb) recommendations on
 12 the appropriate—

13 “(AA) period of anal-
 14 ysis;

15 “(BB) design period;

16 “(CC) discount rates;
 17 and

18 “(DD) use of actual
 19 material life and mainte-
 20 nance cost data.

21 “(C) STRENGTHENING TRANSPORTATION
 22 PLANNING AND ENVIRONMENTAL DECISION-
 23 MAKING.—

24 “(i) IN GENERAL.—The Secretary
 25 shall carry out research—

1 “(I) to improve transportation
2 planning and environmental decision-
3 making processes; and

4 “(II) to minimize the impact of
5 surface transportation on the environ-
6 ment and quality of life.

7 “(ii) OBJECTIVES.—In carrying out
8 this subparagraph the Secretary shall
9 carry out research and development activi-
10 ties—

11 “(I) to reduce the impact of high-
12 way infrastructure and operations on
13 the natural and human environment;

14 “(II) to advance improvements in
15 environmental analyses and processes
16 and context sensitive solutions for
17 transportation decisionmaking;

18 “(III) to improve construction
19 techniques;

20 “(IV) to accelerate construction
21 to reduce congestion and related emis-
22 sions;

23 “(V) to reduce the impact of
24 highway runoff on the environment;

1 “(VI) to maintain sustainability
2 of biological communities and eco-
3 systems adjacent to highway cor-
4 ridors;

5 “(VII) to improve understanding
6 and modeling of the factors that con-
7 tribute to the demand for transpor-
8 tation;

9 “(VIII) to improve transportation
10 planning decisionmaking and coordi-
11 nation; and

12 “(IX) to reduce the environ-
13 mental impacts of freight movement.

14 “(iii) CONTENTS.—Research and tech-
15 nology activities carried out under this
16 subparagraph may include—

17 “(I) creation of models and tools
18 for evaluating transportation meas-
19 ures and transportation system de-
20 signs;

21 “(II) congestion reduction ef-
22 forts;

23 “(III) transportation *and eco-*
24 *nomic development* planning in rural
25 areas and small communities;

1 “(IV) improvement of State,
2 local, and tribal capabilities relating
3 to surface transportation planning
4 and the environment;

5 “(V) environmental stewardship
6 and sustainability activities;

7 “(VI) streamlining of project de-
8 livery processes;

9 “(VII) development of effective
10 strategies and techniques to analyze
11 and minimize impacts to the natural
12 and human environment and provide
13 environmentally beneficial mitigation;

14 “(VIII) comprehensive multi-
15 national planning;

16 “(IX) multistate transportation
17 corridor planning;

18 “(X) improvement of transpor-
19 tation choices, including walking, bicy-
20 cling, and linkages to public transpor-
21 tation;

22 “(XI) ecosystem sustainability;

23 “(XII) wildlife and plant popu-
24 lation connectivity and interaction
25 across and along highway corridors;

1 “(XIII) analysis, measurement,
2 and reduction of air pollution from
3 transportation sources;

4 “(XIV) advancement in the un-
5 derstanding of health impact analyses
6 in transportation planning and project
7 development;

8 “(XV) transportation planning
9 professional development;

10 “(XVI) research on improving
11 the cooperation and integration of
12 transportation planning with other re-
13 gional plans, including land use, en-
14 ergy, water infrastructure, *economic*
15 *development*, and housing plans; and

16 “(XVII) reducing the environ-
17 mental impacts of freight movement.

18 “(D) REDUCING CONGESTION, IMPROVING
19 HIGHWAY OPERATIONS, AND ENHANCING
20 FREIGHT PRODUCTIVITY.—

21 “(i) IN GENERAL.—The Secretary
22 shall carry out research under this sub-
23 paragraph with the goals of—

24 “(I) addressing congestion prob-
25 lems;

1 “(II) reducing the costs of con-
2 gestion;

3 “(III) improving freight move-
4 ment;

5 “(IV) increasing productivity;
6 and

7 “(V) improving the economic
8 competitiveness of the United States.

9 “(ii) OBJECTIVES.—In carrying out
10 this subparagraph, the Secretary shall
11 carry out research and development activi-
12 ties to identify, develop, and assess innova-
13 tions that have the potential—

14 “(I) to reduce traffic congestion;

15 “(II) to improve freight move-
16 ment; and

17 “(III) to reduce freight-related
18 congestion throughout the transpor-
19 tation network.

20 “(iii) CONTENTS.—Research and tech-
21 nology activities carried out under this
22 subparagraph may include—

23 “(I) active traffic and demand
24 management;

- 1 “(II) acceleration of the imple-
- 2 mentation of Intelligent Transpor-
- 3 tation Systems technology;
- 4 “(III) advanced transportation
- 5 concepts and analysis;
- 6 “(IV) arterial management and
- 7 traffic signal operation;
- 8 “(V) congestion pricing;
- 9 “(VI) corridor management;
- 10 “(VII) emergency operations;
- 11 “(VIII) research relating to ena-
- 12 bling technologies and applications;
- 13 “(IX) freeway management;
- 14 “(X) evaluation of enabling tech-
- 15 nologies;
- 16 “(XI) freight industry profes-
- 17 sional development;
- 18 “(XII) impacts of vehicle size
- 19 and weight on congestion;
- 20 “(XIII) freight operations and
- 21 technology;
- 22 “(XIV) operations and freight
- 23 performance measurement and man-
- 24 agement;

1 “(XV) organization and planning
2 for operations;

3 “(XVI) planned special events
4 management;

5 “(XVII) real-time transportation
6 information;

7 “(XVIII) road weather manage-
8 ment;

9 “(XIX) traffic and freight data
10 and analysis tools;

11 “(XX) traffic control devices;

12 “(XXI) traffic incident manage-
13 ment;

14 “(XXII) work zone management;

15 “(XXIII) communication of trav-
16 el, roadway, and emergency informa-
17 tion to persons with disabilities; and

18 “(XXIV) research on enhanced
19 mode choice and intermodal
20 connectivity.

21 “(E) ASSESSING POLICY AND SYSTEM FI-
22 NANCING ALTERNATIVES.—

23 “(i) IN GENERAL.—The Secretary
24 shall carry out research and technology on
25 emerging issues in the domestic and inter-

1 national transportation community from a
2 policy perspective.

3 “(ii) OBJECTIVES.—Research and
4 technology activities carried out under this
5 subparagraph shall provide information to
6 policy and decisionmakers on current and
7 emerging transportation issues.

8 “(iii) RESEARCH ACTIVITIES.—Activi-
9 ties carried out under this subparagraph
10 shall include—

11 “(I) the planning and integration
12 of a coordinated program related to
13 the possible design, interoperability,
14 and institutional roles of future sus-
15 tainable transportation revenue mech-
16 anisms;

17 “(II) field trials to research po-
18 tential alternative revenue mecha-
19 nisms, and *the Secretary* may partner
20 with individual States, groups of
21 States, or other entities to implement
22 such trials; and

23 “(III) other activities to study
24 new methods which preserve a user-
25 fee structure to maintain the long-

1 term solvency of the Highway Trust
2 Fund.

3 “(iv) CONTENTS.—Research and tech-
4 nology activities carried out under this
5 subparagraph may include—

6 “(I) highway needs and invest-
7 ment analysis;

8 “(II) *a* motor fuel tax evasion
9 program;

10 “(III) advancing innovations in
11 revenue generation, financing, and
12 procurement for project delivery;

13 “(IV) improving the accuracy of
14 project cost analyses;

15 “(V) highway performance meas-
16 urement;

17 “(VI) travel demand performance
18 measurement;

19 “(VII) highway finance perform-
20 ance measurement;

21 “(VIII) international technology
22 exchange initiatives;

23 “(IX) infrastructure investment
24 needs reports;

1 “(X) promotion of the tech-
2 nologies, products, and best practices
3 of the United States; and

4 “(XI) establishment of partner-
5 ships among the United States, for-
6 eign agencies, and transportation ex-
7 perts.

8 “(v) FUNDING.—Of the funds author-
9 ized to carry out this subsection, no less
10 than 50 percent shall be used to carry out
11 clause (iii).

12 “(F) INFRASTRUCTURE INVESTMENT
13 NEEDS REPORT.—

14 “(i) IN GENERAL.—Not later than
15 July 31, 2012, and July 31 of every sec-
16 ond year thereafter, the Secretary shall
17 submit to the Committee on Transpor-
18 tation and Infrastructure of the House of
19 Representatives and the Committee on En-
20 vironment and Public Works of the Senate
21 a report that describes estimates of the fu-
22 ture highway and bridge needs of the
23 United States and the backlog of current
24 highway and bridge needs.

1 “(ii) COMPARISONS.—Each report
2 under clause (i) shall include all informa-
3 tion necessary to relate and compare the
4 conditions and service measures used in
5 the previous biennial reports to conditions
6 and service measures used in the current
7 report.

8 “(iii) INCLUSIONS.—Each report
9 under clause (i) shall provide recommenda-
10 tions to Congress on changes to the High-
11 way Performance Monitoring System that
12 address—

13 “(I) improvements to the quality
14 and standardization of data collection
15 on all functional classifications of
16 Federal-aid highways for accurate sys-
17 tem length, lane length, and vehicle-
18 mile of travel; and

19 “(II) changes to the reporting re-
20 quirements authorized under section
21 315, to reflect recommendations
22 under this paragraph for collection,
23 storage, analysis, reporting, and dis-
24 play of data for Federal-aid highways

1 and, to the maximum extent practical,
2 all public roads.

3 “(G) EXPLORING NEXT GENERATION SO-
4 LUTIONS AND CAPITALIZING ON THE HIGHWAY
5 RESEARCH CENTER.—

6 “(i) IN GENERAL.—The Secretary
7 shall carry out research and development
8 activities relating to exploratory advanced
9 research—

10 “(I) to leverage the targeted ca-
11 pabilities of the Turner-Fairbank
12 Highway Research Center to develop
13 technologies and innovations of na-
14 tional importance; and

15 “(II) to develop potentially trans-
16 formational solutions to improve the
17 durability, efficiency, environmental
18 impact, productivity, and safety as-
19 pects of highway and intermodal
20 transportation systems.

21 “(ii) CONTENTS.—Research and tech-
22 nology activities carried out under this
23 subparagraph may include—

1 “(I) long-term, high-risk research
2 to improve the materials used in high-
3 way infrastructure;

4 “(II) exploratory research to as-
5 sess the effects of transportation deci-
6 sions on human health;

7 “(III) advanced development of
8 surrogate measures for highway safe-
9 ty;

10 “(IV) transformational research
11 to affect complex environmental and
12 highway system relationships;

13 “(V) development of economical
14 and environmentally sensitive designs,
15 efficient and quality-controlled con-
16 struction practices, and durable mate-
17 rials;

18 “(VI) development of advanced
19 data acquisition techniques for system
20 condition and performance moni-
21 toring;

22 “(VII) inclusive research for
23 hour-to-hour operational decision-
24 making and simulation forecasting;

1 “(VIII) understanding current
2 and emerging phenomena to inform
3 next generation transportation policy
4 decisionmaking; and

5 “(IX) continued improvement
6 and advancement of the Turner-
7 Fairbank Highway Research Center.

8 “(H) ALIGNING NATIONAL CHALLENGES
9 AND DISSEMINATING INFORMATION.—

10 “(i) IN GENERAL.—The Secretary
11 shall conduct research and development ac-
12 tivities—

13 “(I) to establish a nationally co-
14 ordinated highway research agenda
15 that—

16 “(aa) focuses on topics of
17 national significance;

18 “(bb) addresses current gaps
19 in research;

20 “(cc) encourages collabora-
21 tion;

22 “(dd) reduces unnecessary
23 duplication of effort; and

24 “(ee) accelerates innovation
25 delivery; and

1 “(II) to provide relevant informa-
2 tion to researchers and highway and
3 transportation practitioners to im-
4 prove the performance of the trans-
5 portation system.

6 “(ii) CONTENTS.—Research and tech-
7 nology activities carried out under this
8 subparagraph may include—

9 “(I) coordination, development,
10 and implementation of a national
11 highway research agenda;

12 “(II) collaboration on national
13 emphasis areas of highway research
14 and coordination among international,
15 Federal, State, and university re-
16 search programs;

17 “(III) development and delivery
18 of research reports and innovation de-
19 livery messages;

20 “(IV) identification of market-
21 ready technologies and innovations;
22 and

23 “(V) provision of access to data
24 developed under this subparagraph to
25 the public, including researchers,

1 stakeholders, and customers, through
2 a publicly accessible Internet site.

3 “(c) TECHNOLOGY AND INNOVATION DEPLOYMENT
4 PROGRAM.—

5 “(1) IN GENERAL.—The Secretary shall carry
6 out a technology and innovation deployment pro-
7 gram relating to all aspects of highway transpor-
8 tation, including planning, financing, operation,
9 structures, materials, pavements, environment, con-
10 struction, and the duration of time between project
11 planning and project delivery, with the goals of—

12 “(A) significantly accelerating the adoption
13 of innovative technologies by the surface trans-
14 portation community;

15 “(B) providing leadership and incentives to
16 demonstrate and promote state-of-the-art tech-
17 nologies, elevated performance standards, and
18 new business practices in highway construction
19 processes that result in improved safety, faster
20 construction, reduced congestion from construc-
21 tion, and improved quality and user satisfac-
22 tion;

23 “(C) constructing longer-lasting highways
24 through the use of innovative technologies and

1 practices that lead to faster construction of effi-
2 cient and safe highways and bridges;

3 “(D) improving highway efficiency, safety,
4 mobility, reliability, service life, environmental
5 protection, and sustainability; and

6 “(E) developing and deploying new tools,
7 techniques, and practices to accelerate the
8 adoption of innovation in all aspects of highway
9 transportation.

10 “(2) IMPLEMENTATION.—

11 “(A) IN GENERAL.—The Secretary shall
12 promote, facilitate, and carry out the program
13 established under paragraph (1) to distribute
14 the products, technologies, tools, methods, or
15 other findings that result from highway re-
16 search and development activities, including re-
17 search and development activities carried out
18 under this chapter.

19 “(B) ACCELERATED INNOVATION DEPLOY-
20 MENT.—In carrying out the program estab-
21 lished under paragraph (1), the Secretary
22 shall—

23 “(i) establish and carry out dem-
24 onstration programs;

1 “(ii) provide incentives, technical as-
2 sistance, and training to researchers and
3 developers; and

4 “(iii) develop improved tools and
5 methods to accelerate the adoption of prov-
6 en innovative practices and technologies as
7 standard practices.

8 “(C) IMPLEMENTATION OF FUTURE STRA-
9 TEGIC HIGHWAY RESEARCH PROGRAM FINDINGS
10 AND RESULTS.—

11 “(i) IN GENERAL.—The Secretary, in
12 consultation with the American Association
13 of State Highway and Transportation Offi-
14 cials and the Transportation Research
15 Board of the National Academy of
16 Sciences, shall implement the findings and
17 recommendations developed under the fu-
18 ture strategic highway research program
19 established under section 510.

20 “(ii) BASIS FOR FINDINGS.—The ac-
21 tivities carried out under this subpara-
22 graph shall be based on the report sub-
23 mitted to Congress by the Transportation
24 Research Board of the National Academy
25 of Sciences under section 510(e).

1 “(iii) PERSONNEL.—The Secretary
2 may use funds made available to carry out
3 this subsection for administrative costs
4 under this subparagraph, which funds shall
5 be used in addition to any other funds
6 made available for that purpose.

7 “(iv) FEES.—

8 “(I) IN GENERAL.—The Sec-
9 retary may impose and collect fees to
10 recover costs associated with special
11 data or analysis requests relating to
12 safety naturalistic driving databases
13 developed under the future of stra-
14 tegic highway research program.

15 “(II) USE OF FEE AMOUNTS.—

16 “(aa) IN GENERAL.—Any
17 fees collected under this clause
18 shall be made available to the
19 Secretary to carry out this sec-
20 tion and shall remain available
21 for expenditure until expended.

22 “(bb) SUPPLEMENT, NOT
23 SUPPLANT.—Any fee amounts
24 collected under this clause shall
25 supplement, but not supplant,

1 amounts made available to the
 2 Secretary to carry out this title.

3 “(d) *AIR QUALITY AND CONGESTION MITIGATION*
 4 *MEASURE OUTCOMES ASSESSMENT RESEARCH.*—

5 “(1) *IN GENERAL.*—*The Secretary, in consulta-*
 6 *tion with the Administrator of the Environmental*
 7 *Protection Agency, shall carry out a research pro-*
 8 *gram to examine the outcomes of actions funded*
 9 *under the congestion mitigation and air quality im-*
 10 *provement program since the enactment of the*
 11 *SAFETEA-LU (Public Law 109–59).*

12 “(2) *GOALS.*—*The goals of the program shall in-*
 13 *clude—*

14 “(A) *the assessment and documentation,*
 15 *through outcomes research conducted on a rep-*
 16 *resentative sample of cases, of—*

17 “(i) *the emission reductions achieved*
 18 *by federally supported surface transpor-*
 19 *tation actions intended to reduce emissions*
 20 *or lessen traffic congestion; and*

21 “(ii) *the air quality and human health*
 22 *impacts of those actions, including potential*
 23 *unrecognized or indirect consequences, at-*
 24 *tributable to those actions;*

1 “(B) an expanded base of empirical evi-
 2 dence on the air quality and human health im-
 3 pacts of actions described in paragraph (1); and

4 “(C) an increase in knowledge of—

5 “(i) the factors determining the air
 6 quality and human health changes associ-
 7 ated with transportation emission reduction
 8 actions; and

9 “(ii) other information to more accu-
 10 rately understand the validity of current es-
 11 timation and modeling routines and ways
 12 to improve those routines.

13 “(3) ADMINISTRATIVE ELEMENTS.—To carry out
 14 this subsection, the Secretary shall—

15 “(A) make a grant for the coordination, se-
 16 lection, management, and reporting of compo-
 17 nent studies to an independent scientific research
 18 organization with the necessary experience in
 19 successfully conducting accountability and other
 20 studies on mobile source air pollutants and asso-
 21 ciated health effects;

22 “(B) ensure that case studies are identified
 23 and conducted by teams selected through a com-
 24 petitive solicitation overseen by an independent
 25 committee of unbiased experts; and

1 “(C) ensure that all findings and reports
 2 are peer-reviewed and published in a form that
 3 presents the findings together with reviewer com-
 4 ments.

5 “(4) *REPORT.*—The Secretary shall submit to the
 6 Committee on Environment and Public Works of the
 7 Senate and the Committee on Transportation and In-
 8 frastructure of the House of Representatives—

9 “(A) not later than 1 year after the date of
 10 enactment of the MAP–21, and for the following
 11 year, a report providing an initial scoping and
 12 plan, and status updates, respectively, for the
 13 program under this subsection; and

14 “(B) not later than 2 years after the date
 15 of enactment of the MAP–21, a final report that
 16 describes the findings of, and recommendations
 17 resulting from, the program under this sub-
 18 section.

19 “(5) *FUNDING.*—Of the amounts made available
 20 to carry out this section, the Secretary shall make
 21 available to carry out this subsection not more than
 22 \$1,000,000 for each fiscal year.”.

23 (b) *CONFORMING AMENDMENT.*—The analysis for
 24 chapter 5 of title 23, United States Code, is amended by

1 striking the item relating to section 503 and inserting the
 2 following:

“503. Research and technology development and deployment.”.

3 **SEC. 2204. TRAINING AND EDUCATION.**

4 Section 504 of title 23, United States Code, is
 5 amended—

6 (1) in subsection (a)—

7 (A) in paragraph (2)(A) by inserting “and
 8 the employees of any other applicable Federal
 9 agency” before the semicolon at the end;

10 (B) in paragraph (3)(A)(ii)(V) by striking
 11 “expediting” and inserting “reducing the
 12 amount of time required for”;

13 (C) by striking paragraph (4);

14 (D) by redesignating paragraphs (5)
 15 through (8) as paragraphs (4) through (7), re-
 16 spectively; and

17 (E) in paragraph (7) (as redesignated by
 18 subparagraph (D)) by striking “paragraph (7)”
 19 and inserting “paragraph (6)”;

20 (2) in subsection (b) by striking paragraph (3)
 21 and inserting the following:

22 “(3) FEDERAL SHARE.—

23 “(A) LOCAL TECHNICAL ASSISTANCE CEN-
 24 TERS.—

1 “(i) IN GENERAL.—Subject to sub-
 2 paragraph (B), the Federal share of the
 3 cost of an activity carried out by a local
 4 technical assistance center under para-
 5 graphs (1) and (2) shall be 50 percent.

6 “(ii) NON-FEDERAL SHARE.—The
 7 non-Federal share of the cost of an activity
 8 described in clause (i) may consist of
 9 amounts provided to a recipient under sub-
 10 section (e) or section 505, up to 100 per-
 11 cent of the non-Federal share.

12 “(B) TRIBAL TECHNICAL ASSISTANCE
 13 CENTERS.—The Federal share of the cost of an
 14 activity carried out by a tribal technical assist-
 15 ance center under paragraph (2)(D)(ii) shall be
 16 100 percent.”;
 17 (3) in subsection (c)(2)—

18 (A) by striking “The Secretary” and in-
 19 serting the following:

20 “(A) IN GENERAL.—The Secretary”;

21 (B) in subparagraph (A) (as designated by
 22 subparagraph (A)) by striking “. The program”
 23 and inserting “, which program”; and

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

1 “(B) USE OF AMOUNTS.—Amounts pro-
 2 vided to institutions of higher education to
 3 carry out this paragraph shall be used to pro-
 4 vide direct support of student expenses.”;

5 (4) in subsection (e)(1)—

6 (A) in the matter preceding subparagraph
 7 (A) by striking “sections 104(b)(1), 104(b)(2),
 8 104(b)(3), 104(b)(4), and 144(e)” and insert-
 9 ing “paragraphs (1) through (4) of section
 10 104(b)”;

11 (B) in subparagraph (D) by striking “and”
 12 at the end;

13 (C) in subparagraph (E) by striking the
 14 period and inserting a semicolon; and

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

16 “(F) meetings of transportation profes-
 17 sionals that include education and professional
 18 development activities;

19 “(G) activities carried out by the National
 20 Highway Institute under subsection (a); and

21 “(H) local technical assistance programs
 22 under subsection (b).”;

23 (5) in subsection (f) in the heading, by striking
 24 “PILOT”;

1 (6) in subsection (g)(4)(F) by striking “excel-
2 lence” and inserting “stewardship”; and

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

4 “~~(h)~~ REGIONAL SURFACE WORKFORCE DEVELOP-
5 MENT CENTERS.—

6 “~~(1)~~ IN GENERAL.—The Secretary may make
7 grants under this section to nonprofit institutions of
8 higher education to establish and operate 5 regional
9 workforce development centers.

10 “~~(2)~~ USE OF AMOUNTS.—

11 “~~(A)~~ IN GENERAL.—Amounts made avail-
12 able under this subsection shall be used by a re-
13 cipient to identify, promote, and advance pro-
14 grams and activities that provide for a skilled,
15 technically competent surface transportation
16 workforce, including—

17 “~~(i)~~ programs carried out through ele-
18 mentary and secondary schools;

19 “~~(ii)~~ programs carried out through
20 community colleges; and

21 “~~(iii)~~ technical training and appren-
22 ticeship programs that are carried out in
23 coordination with labor organizations, em-
24 ployers, and other relevant stakeholders.

1 ~~“(B) OPTIONAL USE.—~~Amounts made
 2 available under this subsection may be used to
 3 support professional development activities for
 4 inservice transportation workers.

5 ~~“(3) CONSULTATION.—~~In carrying out this sub-
 6 section, each regional workforce development center
 7 shall consult with stakeholders in the education and
 8 transportation communities, including organizations
 9 representing the interests of—

10 ~~“(A) elementary and secondary schools;~~

11 ~~“(B) institutions of higher education;~~

12 ~~“(C) inservice transportation workers; and~~

13 ~~“(D) transportation professionals.~~

14 ~~“(i) CENTERS FOR SURFACE TRANSPORTATION EX-~~
 15 ~~CELLENCE.—~~

16 ~~“(h) CENTERS FOR SURFACE TRANSPORTATION EX-~~
 17 ~~CELLENCE.—~~

18 ~~“(1) IN GENERAL.—~~*The Secretary may make*
 19 ~~*grants under this section to establish and maintain*~~
 20 ~~*centers for surface transportation excellence.*~~

21 ~~“(2) GOALS.—~~*The goals of a center referred to in*
 22 ~~*paragraph (1) shall be to promote and support stra-*~~
 23 ~~*tegic national surface transportation programs and*~~
 24 ~~*activities relating to the work of State departments of*~~
 25 ~~*transportation in the areas of environment, surface*~~

1 *transportation safety, rural safety, and project fi-*
 2 *nance.*”.

3 **SEC. 2205. STATE PLANNING AND RESEARCH.**

4 Section 505 of title 23, United States Code, is
 5 amended—

6 (1) in subsection (a)—

7 (A) in the matter preceding paragraph (1)
 8 by striking “section 104 (other than sections
 9 104(f) and 104(h)) and under section 144” and
 10 inserting “paragraphs (1) through (5) of sec-
 11 tion 104(b)”; and

12 (B) in paragraph (3) by striking “under
 13 section 303” and inserting “, plans, and proc-
 14 esses under sections 119, 148, 149, and 167”;

15 (2) in subsection (b)—

16 (A) in paragraph (1) by striking “25” and
 17 inserting “24”; and

18 (B) in paragraph (2) by striking “75 per-
 19 cent of the funds described in paragraph (1)”
 20 and inserting “70 percent of the funds de-
 21 scribed in subsection (a)”;

22 (3) by redesignating subsections (c) and (d) as
 23 subsections (d) and (e), respectively;

24 (4) by inserting after subsection (b) the fol-
 25 lowing:

1 “(c) IMPLEMENTATION OF FUTURE STRATEGIC
2 HIGHWAY RESEARCH PROGRAM FINDINGS AND RE-
3 SULTS.—

4 “(1) *FUNDS*.—~~Not less~~ ~~Not less~~ than 6 percent
5 of the funds subject to subsection (a) that are ap-
6 portioned to a State for a fiscal year shall be made
7 available to the Secretary to carry out section
8 503(c)(2)(C).

9 “(2) *TREATMENT OF FUNDS*.—~~Funds~~ ~~Funds~~ ex-
10 pended under paragraph (1) shall not be considered
11 to be part of the extramural budget of the agency
12 for the purpose of section 9 of the Small Business
13 Act (15 U.S.C. 638).”; and

14 (5) in paragraph (e) (as so redesignated) by
15 striking “section 118(b)(2)” and inserting “section
16 118(b)”.

17 **SEC. 2206. INTERNATIONAL HIGHWAY TRANSPORTATION**
18 **PROGRAM.**

19 Section 506 of title 23, United States Code, is re-
20 pealed.

21 **SEC. 2207. SURFACE TRANSPORTATION ENVIRONMENTAL**
22 **COOPERATIVE RESEARCH PROGRAM.**

23 Section 507 of title 23, United States Code, is re-
24 pealed.

1 **SEC. 2208. NATIONAL COOPERATIVE FREIGHT RESEARCH.**

2 Section 509(d) of title 23, United States Code, is
3 amended by adding at the end the following:

4 “(6) COORDINATION OF COOPERATIVE RE-
5 SEARCH.—The National Academy of Sciences shall
6 coordinate research agendas, research project selec-
7 tions, and competitions across all transportation-re-
8 lated cooperative research programs carried out by
9 the National Academy of Sciences to ensure pro-
10 gram efficiency, effectiveness, and the dissemination
11 of research findings.”.

12 **SEC. 2209. UNIVERSITY TRANSPORTATION CENTERS PRO-**
13 **GRAM.**

14 (a) IN GENERAL.—Section 5505 of title 49, United
15 States Code, is amended to read as follows:

16 **“§ 5505. University transportation centers program**

17 “(a) UNIVERSITY TRANSPORTATION CENTERS PRO-
18 GRAM.—

19 “(1) ESTABLISHMENT AND OPERATION.—The
20 Secretary shall make grants under this section to eli-
21 gible nonprofit institutions of higher education to es-
22 tablish and operate university transportation cen-
23 ters.

24 “(2) ROLE OF CENTERS.—The role of each uni-
25 versity transportation center referred to in para-
26 graph (1) shall be—

1 “(A) to advance transportation expertise
 2 and technology in the varied disciplines that
 3 comprise the field of transportation through
 4 education, research, and technology transfer ac-
 5 tivities;

6 “(B) to provide for a critical transpor-
 7 tation knowledge base outside of the Depart-
 8 ment of Transportation; and

9 “(C) to address critical workforce needs
 10 and educate the next generation of transpor-
 11 tation leaders.

12 “(b) COMPETITIVE SELECTION PROCESS.—

13 “(1) APPLICATIONS.—To receive a grant under
 14 this section, a nonprofit institution of higher edu-
 15 cation shall submit to the Secretary an application
 16 that is in such form and contains such information
 17 as the Secretary may require.

18 “(2) GENERAL SELECTION CRITERIA.—

19 “(A) IN GENERAL.—Except as otherwise
 20 provided by this section, the Secretary shall
 21 award grants under this section in nonexclusive
 22 candidate topic areas established by the Sec-
 23 retary that address the research priorities iden-
 24 tified in section 503 of title 23.

1 “(B) CRITERIA.—The Secretary, in con-
2 junction with the Administrators of the Federal
3 Highway Administration and the Federal Tran-
4 sit Administration, shall select each recipient of
5 a grant under this section through a competi-
6 tive process based on the assessment of the Sec-
7 retary relating to—

8 “(i) the demonstrated ability of the
9 recipient to address each specific topic area
10 described in the research and strategic
11 plans of the recipient;

12 “(ii) the demonstrated research, tech-
13 nology transfer, and education resources
14 available to the recipient to carry out this
15 section;

16 “(iii) the ability of the recipient to
17 provide leadership in solving immediate
18 and long-range national and regional
19 transportation problems;

20 “(iv) the ability of the recipient to
21 carry out research, education, and tech-
22 nology transfer activities that are
23 multimodal and multidisciplinary in scope;

24 “(v) the demonstrated commitment of
25 the recipient to carry out transportation

1 workforce development programs
2 through—
3 “(I) degree-granting programs;
4 “(II) training seminars for prac-
5 ticing professionals;
6 “(III) outreach activities to at-
7 tract new entrants into the transpor-
8 tation field, including women, minori-
9 ties, and persons from disadvantaged
10 communities; and
11 “(IV) primary and secondary
12 school transportation workforce out-
13 reach;
14 “(vi) the demonstrated ability of the
15 recipient to disseminate results and spur
16 the implementation of transportation re-
17 search and education programs through
18 national or statewide continuing education
19 programs;
20 “(vii) the demonstrated commitment
21 of the recipient to the use of peer review
22 principles and other research best practices
23 in the selection, management, and dissemi-
24 nation of research projects;

“(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—

1 “(I) section 504(b) or 505 of title
2 23; and

3 “(II) subject to prior approval by
4 the Secretary, a transportation-related
5 grant from the National Science
6 Foundation.

7 “(3) TIER 2 UNIVERSITY TRANSPORTATION
8 CENTERS.—

9 “(A) IN GENERAL.—For each of fiscal
10 years 2012 and 2013, the Secretary shall pro-
11 vide grants of not more than \$2,000,000 each
12 to not more than 20 recipients to carry out this
13 section.

14 “(B) RESTRICTION.—A grant recipient
15 under paragraph (2) shall not be eligible to re-
16 ceive a grant under this paragraph.

17 “(C) MATCHING REQUIREMENT.—

18 “(i) IN GENERAL.—As a condition of
19 receiving a grant under this paragraph, a
20 grant recipient shall match 50 percent of
21 the amounts made available under the
22 grant.

23 “(ii) SOURCES.—The matching
24 amounts referred to in clause (i) may in-

1 clude amounts made available to the recipi-
2 ent under—

3 “(I) section 504(b) or 505 of title
4 23; and

5 “(II) subject to prior approval by
6 the Secretary, a transportation-related
7 grant from the National Science
8 Foundation.

9 “(D) FOCUSED RESEARCH.—In awarding
10 grants under this paragraph, consideration shall
11 be given to minority institutions, as defined by
12 section 365(3) of the Higher Education Act (20
13 U.S.C. Sec. 1067k), or consortia that include
14 such institutions that have demonstrated an
15 ability in transportation-related research ~~and~~
16 ~~for which the requirements of subparagraph.~~
17 *The requirements of subsection (c)(3)(C) shall*
18 not apply upon demonstration of financial hard-
19 ship by the applicant institution.

20 “(d) PROGRAM COORDINATION.—

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

22 “(A) coordinate the research, education,
23 and technology transfer activities carried out by
24 grant recipients under this section; and

1 “(B) disseminate the results of that re-
2 search through the establishment and operation
3 of an information clearinghouse.

4 “(2) ANNUAL REVIEW AND EVALUATION.—Not
5 less frequently than annually, and consistent with
6 the plan developed under section 508 of title 23, the
7 Secretary shall review and evaluate the programs
8 carried out under this section by grant recipients.

9 “(3) PROGRAM EVALUATION AND OVER-
10 SIGHT.—For each of fiscal years 2012 and 2013, the
11 Secretary shall expend not more than 1½ percent of
12 the amounts made available to the Secretary to
13 carry out this section for any coordination, evalua-
14 tion, and oversight activities of the Secretary under
15 this section and section 5506.

16 “(e) LIMITATION ON AVAILABILITY OF AMOUNTS.—
17 Amounts made available to the Secretary to carry out this
18 section shall remain available for obligation by the Sec-
19 retary for a period of 3 years after the last day of the
20 fiscal year for which the amounts are appropriated.

21 “(f) INFORMATION COLLECTION.—Any survey, ques-
22 tionnaire, or interview that the Secretary determines to
23 be necessary to carry out reporting requirements relating
24 to any program assessment or evaluation activity under

1 this section, including customer satisfaction assessments,
 2 shall not be subject to chapter 35 of title 44.”.

3 (b) CONFORMING AMENDMENT.—The analysis for
 4 chapter 55 of title 49, United States Code, is amended
 5 by striking the item relating to section 5505 and inserting
 6 the following:

“Sec. 5505. University transportation centers program.”.

7 **SEC. 2210. BUREAU OF TRANSPORTATION STATISTICS.**

8 (a) IN GENERAL.—Subtitle III of title 49, United
 9 States Code, is amended by adding at the end the fol-
 10 lowing:

11 **“CHAPTER 63—BUREAU OF**
 12 **TRANSPORTATION STATISTICS**

“6301. ~~Establishment~~*Definitions.*

“6302. ~~Director~~*Bureau of Transportation Statistics.*

“6303. ~~Responsibilities~~*Intermodal transportation database.*

“6304. National transportation library.

“6305. Advisory council on transportation statistics.

“6306. Transportation statistical collection, analysis, and dissemination.

“6307. Furnishing of information, data, or reports by Federal agencies.

“~~6308. Prohibition on certain disclosures~~ *Proceeds of data product sales.*

“~~6309. Data access.~~

“~~6310~~*6308. Proceeds of data product sales.*

“~~6311~~*6309. Information collection.*

“~~6312~~*6310. National transportation atlas database.*

“~~6313~~*6311. Limitations on statutory construction.*

“~~6314~~*6312. Research and development grants.*

“~~6315~~*6313. Transportation statistics annual report.*

“~~6316~~*6314. Mandatory response authority for freight data collection.*

13 **“§ 6301. Definitions.**

14 “In this chapter, the following definitions apply:

15 “(1) BUREAU.—The term ‘Bureau’ means the
 16 Bureau of Transportation Statistics established by
 17 section 6302(a).

1 “(2) DEPARTMENT.—The term ‘Department’
2 means the Department of Transportation.

3 “(3) DIRECTOR.—The term ‘Director’ means
4 the Director of the Bureau.

5 “(4) LIBRARY.—The term ‘Library’ means the
6 National Transportation Library established by sec-
7 tion 6304(a).

8 “(5) SECRETARY.—The term ‘Secretary’ means
9 the Secretary of Transportation.

10 **“§ 6302. Bureau of Transportation Statistics.**

11 “(a) ESTABLISHMENT.—There is established in the
12 Research and Innovative Technology Administration the
13 Bureau of Transportation Statistics.

14 “(b) DIRECTOR.—

15 “(1) APPOINTMENT.—The Bureau shall be
16 headed by a Director, who shall be appointed in the
17 competitive service by the Secretary.

18 “(2) QUALIFICATIONS.—The Director shall be
19 appointed from among individuals who are qualified
20 to serve as the Director by virtue of training and ex-
21 perience in the collection, analysis, and use of trans-
22 portation statistics.

23 “(3) DUTIES.—

24 “(A) IN GENERAL.—The Director shall—

1 “(i) serve as the senior advisor to the
2 Secretary on data and statistics; and

3 “(ii) be responsible for carrying out
4 the duties described in subparagraph (B).

5 “(B) DUTIES.—The Director shall—

6 “(i) ensure that the statistics com-
7 piled under clause (vi) are designed to sup-
8 port transportation decisionmaking by—

9 “(I) the Federal Government;

10 “(II) State and local govern-
11 ments;

12 “(III) metropolitan planning or-
13 ganizations;

14 “(IV) transportation-related asso-
15 ciations;

16 “(V) the private sector, including
17 the freight community; and

18 “(VI) the public;

19 “(ii) establish on behalf of the Sec-
20 retary a program—

21 “(I) to effectively integrate safety
22 data across modes; and

23 “(II) to address gaps in existing
24 Department safety data programs;

1 “(iii) work with the operating admin-
2 istrations of the Department—

3 “(I) to establish and implement
4 the data programs of the Bureau; and

5 “(II) to improve the coordination
6 of information collection efforts with
7 other Federal agencies;

8 “(iv) evaluate and update as nec-
9 essary surveys and data collection methods
10 of the Department on a continual basis to
11 improve the accuracy and utility of trans-
12 portation statistics;

13 “(v) encourage the standardization of
14 data, data collection methods, and data
15 management and storage technologies for
16 data collected by—

17 “(I) the Bureau;

18 “(II) the operating administra-
19 tions of the Department;

20 “(III) State and local govern-
21 ments;

22 “(IV) metropolitan planning or-
23 ganizations; and

24 “(V) private sector entities;

1 “(vi) collect, compile, analyze, and
2 publish a comprehensive set of transpor-
3 tation statistics on the performance and
4 impacts of the national transportation sys-
5 tem, including statistics on—

6 “(I) transportation safety across
7 all modes and intermodally;

8 “(II) the state of good repair of
9 United States transportation infra-
10 structure;

11 “(III) the extent, connectivity,
12 and condition of the transportation
13 system, building on the national
14 transportation atlas database devel-
15 oped under section 6310;

16 “(IV) economic efficiency across
17 the entire transportation sector;

18 “(V) the effects of the transpor-
19 tation system on global and domestic
20 economic competitiveness;

21 “(VI) demographic, economic,
22 and other variables influencing travel
23 behavior, including choice of transpor-
24 tation mode and goods movement;

1 “(VII) transportation-related
2 variables that influence the domestic
3 economy and global competitiveness;

4 “(VIII) economic costs and im-
5 pacts for passenger travel and freight
6 movement;

7 “(IX) intermodal and multimodal
8 passenger movement;

9 “(X) intermodal and multimodal
10 freight movement; and

11 “(XI) consequences of transpor-
12 tation for the human and natural en-
13 vironment;

14 “(vii) build and disseminate the trans-
15 portation layer of the National Spatial
16 Data Infrastructure developed under Exec-
17 utive Order 12906 (59 Fed. Reg. 17671)
18 (or a successor Executive Order), including
19 by coordinating the development of trans-
20 portation geospatial data standards, com-
21 piling intermodal geospatial data, and col-
22 lecting geospatial data that is not being
23 collected by other entities;

24 “(viii) issue guidelines for the collec-
25 tion of information by the Department

1 that the Director determines necessary to
2 develop transportation statistics and carry
3 out modeling, economic assessment, and
4 program assessment activities to ensure
5 that the information is accurate, reliable,
6 relevant, uniform, and in a form that per-
7 mits systematic analysis by the Depart-
8 ment;

9 “(ix) review and report to the Sec-
10 retary on the sources and reliability of—

11 “(I) the statistics proposed by
12 the heads of the operating administra-
13 tions of the Department to measure
14 outputs and outcomes as required
15 under the Government Performance
16 and Results Act of 1993 (Public Law
17 103–62; 107 Stat. 285); and

18 “(II) at the request of the Sec-
19 retary, any other data collected or sta-
20 tistical information published by the
21 heads of the operating administrations
22 of the Department; and

23 “(x) ensure that the statistics pub-
24 lished under this section are readily acces-
25 sible to the public.

1 “(c) ACCESS TO FEDERAL DATA.—In carrying out
 2 subsection (b)(3)(B)(ii), the Director shall be given access
 3 to all safety data that the Director determines necessary
 4 to carry out that subsection that is held by the Depart-
 5 ment or any other Federal agency.

6 **“§ 6303. Intermodal transportation database**

7 “(a) IN GENERAL.—In consultation with the Under
 8 Secretary Transportation for Policy, the Assistant Secre-
 9 taries of the Department, and the heads of the operating
 10 administrations of the Department, the Director shall es-
 11 tablish and maintain a transportation database for all
 12 modes of transportation.

13 “(b) USE.—The database shall be suitable for anal-
 14 yses carried out by the Federal Government, the States,
 15 and metropolitan planning organizations.

16 “(c) CONTENTS.—The database shall include—

17 “(1) information on the volumes and patterns
 18 of movement of goods, including local, interregional,
 19 and international movement, by all modes of trans-
 20 portation, intermodal combination, and relevant clas-
 21 sification;

22 “(2) information on the volumes and patterns
 23 of movement of people, including local, interregional,
 24 and international movements, by all modes of trans-

1 portation (including bicycle and pedestrian modes),
2 intermodal combination, and relevant classification;

3 “(3) information on the location and
4 connectivity of transportation facilities and services;
5 and

6 “(4) a national accounting of expenditures and
7 capital stocks on each mode of transportation and
8 intermodal combination.

9 **“§ 6304. National transportation library**

10 “(a) PURPOSE AND ESTABLISHMENT.—To support
11 the information management and decisionmaking needs of
12 transportation officials at the Federal, State, and local lev-
13 els, there is established in the Bureau of Transportation
14 Statistics a National Transportation Library that shall—

15 “(1) be headed by an individual who is highly
16 qualified in library and information science;

17 “(2) acquire, preserve, and manage transpor-
18 tation information and information products and
19 services for use by the Department, other Federal
20 agencies, and the general public;

21 “(3) provide reference and research assistance;

22 “(4) serve as a central depository for research
23 results and technical publications of the Depart-
24 ment;

1 “(5) provide a central clearinghouse for trans-
2 portation data and information of the Federal Gov-
3 ernment;

4 “(6) serve as coordinator and policy lead for
5 transportation information access;

6 “(7) provide transportation information and in-
7 formation products and services to—

8 “(A) the Department;

9 “(B) other Federal agencies;

10 “(C) public and private organizations; and

11 “(D) individuals, within the United States
12 as well as internationally;

13 “(8) coordinate efforts among, and cooperate
14 with, transportation libraries, information providers,
15 and technical assistance centers, with the goal of de-
16 veloping a comprehensive transportation information
17 and knowledge network that supports the activities
18 described in section 6302(b)(3)(B); and

19 “(9) engage in such other activities as the Di-
20 rector determines to be necessary and as the re-
21 sources of the Library permit.

22 “(b) ACCESS.—The Director shall publicize, facili-
23 tate, and promote access to the information products and
24 services described in subsection (a), with the goal of im-
25 proving the ability of the transportation community to

1 share information and the ability of the Director to make
2 statistics and other information readily accessible as re-
3 quired under section 6302(b)(3)(B)(x).

4 “(c) AGREEMENTS.—

5 “(1) IN GENERAL.—To carry out this section,
6 the Director may enter into agreements with, pro-
7 vide grants to, and receive amounts from, any—

8 “(A) State or local government;

9 “(B) organization;

10 “(C) business; or

11 “(D) individual.

12 “(2) CONTRACTS, GRANTS, AND AGREE-
13 MENTS.—The Library may initiate and support spe-
14 cific information and data management, access, and
15 exchange activities relating to the strategic goals of
16 the Department, knowledge networking, and na-
17 tional and international cooperation, by entering into
18 contracts or other agreements or providing grants.

19 “(3) AMOUNTS.—Any amounts received by the
20 Library as payment for library products and services
21 or other activities shall be made available to the Di-
22 rector to carry out this section and remain available
23 until expended.

1 **“§ 6305. Advisory council on transportation statistics**

2 “(a) IN GENERAL.—The Director shall establish and
3 consult with an advisory council on transportation statis-
4 tics.

5 “(b) FUNCTION.—The function of the advisory coun-
6 cil established under this subsection is to advise the Direc-
7 tor on—

8 “(1) the quality, reliability, consistency, objec-
9 tivity, and relevance of transportation statistics and
10 analyses collected, supported, or disseminated by the
11 Bureau and the Department; and

12 “(2) methods to encourage cooperation and
13 interoperability of transportation data collected by
14 the Bureau, the operating administrations of the De-
15 partment, States, local governments, metropolitan
16 planning organizations, and private sector entities.

17 “(c) MEMBERSHIP.—The advisory council shall be
18 composed of not fewer than 9 and not more than 11 mem-
19 bers appointed by the Director, who shall not be officers
20 or employees of the United States.

21 “(d) TERMS OF APPOINTMENT.—

22 “(1) IN GENERAL.—Except as provided in para-
23 graph (2), members of the advisory council shall be
24 appointed to staggered terms not to exceed 3 years.

25 “(2) ADDITIONAL TERMS.—A member may be
26 renominated for 1 additional 3-year term.

1 “(3) PREVIOUS MEMBERS.—A member serving
 2 on an advisory council on transportation statistics
 3 on the day before the date of enactment of the
 4 MAP-21 shall serve until the end of the appointed
 5 term of the member.

6 “(e) APPLICABILITY OF FEDERAL ADVISORY COM-
 7 MITTEE ACT.—The Federal Advisory Committee Act (5
 8 U.S.C. App.) shall apply to the advisory council estab-
 9 lished under this section, except that section 14 of that
 10 Act shall not apply.

11 **“§ 6306. Transportation statistical collection, anal-**
 12 **ysis, and dissemination**

13 “To ensure that all transportation statistical collec-
 14 tion, analysis, and dissemination is carried out in a coordi-
 15 nated manner, the Director may—

16 “(1) use the services, equipment, records, per-
 17 sonnel, information, and facilities of other Federal
 18 agencies, or State, local, and private agencies and
 19 instrumentalities, subject to the conditions that the
 20 applicable agency or instrumentality consents to that
 21 use;

22 “(2) enter into agreements with the agencies
 23 and instrumentalities described in paragraph (1) for
 24 purposes of data collection and analysis;

1 “(3) confer and cooperate with foreign govern-
2 ments, international organizations, and State, mu-
3 nicipal, and other local agencies;

4 “(4) request such information, data, and re-
5 ports from any Federal agency as the Director de-
6 termines necessary to carry out this chapter;

7 “(5) encourage replication, coordination, and
8 sharing of information among transportation agen-
9 cies regarding information systems, information pol-
10 icy, and data; and

11 “(6) confer and cooperate with Federal statis-
12 tical agencies as the Director determines necessary
13 to carry out this chapter, including by entering into
14 cooperative data sharing agreements in conformity
15 with all laws and regulations applicable to the disclo-
16 sure and use of data.

17 **“§ 6307. Furnishing of information, data, or reports**
18 **by Federal agencies**

19 “(a) IN GENERAL.—Except as provided in subsection
20 (b), a Federal agency requested to furnish information,
21 data, or reports by the Director under section
22 6302(b)(3)(B) shall provide the information to the Direc-
23 tor.

24 “(b) PROHIBITION ON CERTAIN DISCLOSURES.—

1 “(1) IN GENERAL.—An officer, employee, or
2 contractor of the Bureau may not—

3 “(A) make any disclosure in which the
4 data provided by an individual or organization
5 under section 6302(b)(3)(B) can be identified;

6 “(B) use the information provided under
7 section 6302(b)(3)(B) for a nonstatistical pur-
8 pose; or

9 “(C) permit anyone other than an indi-
10 vidual authorized by the Director to examine
11 any individual report provided under section
12 6302(b)(3)(B).

13 “(2) COPIES OF REPORTS.—

14 “(A) IN GENERAL.—No department, bu-
15 reau, agency, officer, or employee of the United
16 States (except the Director in carrying out this
17 chapter) may require, for any reason, a copy of
18 any report that has been filed under section
19 6302(b)(3)(B) with the Bureau or retained by
20 an individual respondent.

21 “(B) LIMITATION ON JUDICIAL PRO-
22 CEEDINGS.—A copy of a report described in
23 subparagraph (A) that has been retained by an
24 individual respondent or filed with the Bureau

1 or any of the employees, contractors, or agents
2 of the Bureau—

3 “(i) shall be immune from legal proc-
4 ess; and

5 “(ii) shall not, without the consent of
6 the individual concerned, be admitted as
7 evidence or used for any purpose in any
8 action, suit, or other judicial or adminis-
9 trative proceedings.

10 “(C) APPLICABILITY.—This paragraph
11 shall apply only to reports that permit informa-
12 tion concerning an individual or organization to
13 be reasonably determined by direct or indirect
14 means.

15 “(3) INFORMING RESPONDENT OF USE OF
16 DATA.—If the Bureau is authorized by statute to
17 collect data or information for a nonstatistical pur-
18 pose, the Director shall clearly distinguish the collec-
19 tion of the data or information, by rule and on the
20 collection instrument, in a manner that informs the
21 respondent who is requested or required to supply
22 the data or information of the nonstatistical pur-
23 pose.

24 “(c) TRANSPORTATION AND TRANSPORTATION-RE-
25 LATED DATA ACCESS.—Except as expressly prohibited by

1 law, the Director shall have access to any transportation
2 and transportation-related information in the possession
3 of any Federal agency.

4 **“§ 6308. Proceeds of data product sales**

5 “Notwithstanding section 3302 of title 31, amounts
6 received by the Bureau from the sale of data products for
7 necessary expenses incurred may be credited to the High-
8 way Trust Fund (other than the Mass Transit Account)
9 for the purpose of reimbursing the Bureau for those ex-
10 penses.

11 **“§ 6309. Information collection**

12 “As the head of an independent Federal statistical
13 agency, the Director may consult directly with the Office
14 of Management and Budget concerning any survey, ques-
15 tionnaire, or interview that the Director considers nec-
16 essary to carry out the statistical responsibilities of this
17 chapter.

18 **“§ 6310. National transportation atlas database**

19 “(a) IN GENERAL.—The Director shall develop and
20 maintain a national transportation atlas database that is
21 comprised of geospatial databases that depict—

22 “(1) transportation networks;

23 “(2) flows of people, goods, vehicles, and craft
24 over the transportation networks; and

1 “(3) social, economic, and environmental condi-
2 tions that affect or are affected by the transpor-
3 tation networks.

4 “(b) INTERMODAL NETWORK ANALYSIS.—The data-
5 bases referred to in subsection (a) shall be capable of sup-
6 porting intermodal network analysis.

7 **“§ 6311. Limitations on statutory construction**

8 “Nothing in this chapter—

9 “(1) authorizes the Bureau to require any other
10 Federal agency to collect data; or

11 “(2) alters or diminishes the authority of any
12 other officer of the Department to collect and dis-
13 seminate data independently.

14 **“§ 6312. Research and development grants**

15 “The Secretary may make grants to, or enter into
16 cooperative agreements or contracts with, public and non-
17 profit private entities (including State transportation de-
18 partments, metropolitan planning organizations, and insti-
19 tutions of higher education) for—

20 “(1) investigation of the subjects described in
21 section 6302(b)(3)(B)(vi);

22 “(2) research and development of new methods
23 of data collection, standardization, management, in-
24 tegration, dissemination, interpretation, and anal-
25 ysis;

1 “(3) demonstration programs by States, local
2 governments, and metropolitan planning organiza-
3 tions to coordinate data collection, reporting, man-
4 agement, storage, and archiving to simplify data
5 comparisons across jurisdictions;

6 “(4) development of electronic clearinghouses of
7 transportation data and related information, as part
8 of the Library; and

9 “(5) development and improvement of methods
10 for sharing geographic data, in support of the data-
11 base under section 6310 and the National Spatial
12 Data Infrastructure developed under Executive
13 Order 12906 (59 Fed. Reg. 17671) (or a successor
14 Executive Order).

15 **“§ 6313. Transportation statistics annual report**

16 “The Director shall submit to the President and Con-
17 gress a transportation statistics annual report, which shall
18 include—

19 “(1) information on the progress of the Direc-
20 tor in carrying out the duties described in section
21 6302(b)(3)(B);

22 “(2) documentation of the methods used to ob-
23 tain and ensure the quality of the statistics pre-
24 sented in the report; and

1 “(3) any recommendations of the Director for
2 improving transportation statistical information.

3 **“§ 6314. Mandatory response authority for freight**
4 **data collection.**

5 ~~“(a) IN GENERAL.—An owner, official, agent, person~~

6 ~~“(a) FREIGHT DATA COLLECTION.—~~

7 ~~“(1) IN GENERAL.—An owner, official, agent,~~
8 ~~person in charge, or assistant to the person in~~
9 ~~charge of any a freight corporation, company, busi-~~
10 ~~ness, institution, establishment, or organization de-~~
11 ~~scribed in paragraph (2) shall be fined in accordance~~
12 ~~with subsection (b) if that individual neglects or re-~~
13 ~~fuses, when requested by the Director or other au-~~
14 ~~thorized officer, employee, or contractor of the Bu-~~
15 ~~reau to submit data under section 6302(b)(3)(B)—~~

16 ~~“(1) to answer completely and correctly to the~~

17 ~~“(A) to answer completely and correctly to~~
18 ~~the best knowledge of that individual all ques-~~
19 ~~tions relating to the corporation, company, busi-~~
20 ~~ness, institution, establishment, or other organi-~~
21 ~~zation; or~~

22 ~~“(2) to make available records or statistics in~~

23 ~~“(B) to make available records or statistics~~
24 ~~in the official custody of the individual.~~

1 “(2) *DESCRIPTION OF ENTITIES.*—A freight cor-
 2 poration, company, business, institution, establish-
 3 ment, or organization referred to in paragraph (1) is
 4 a corporation, company, business, institution, estab-
 5 lishment, or organization that—

6 “(A) receives Federal funds relating to the
 7 freight program; and

8 “(B) has consented to be subject to a fine
 9 under this subsection on—

10 “(i) refusal to supply any data re-
 11 quested; or

12 “(ii) failure to respond to a written re-
 13 quest.

14 “(b) FINES.—

15 “(1) IN GENERAL.—Subject to paragraph (2),
 16 an individual described in subsection (a) shall be
 17 fined not more than \$500.

18 “(2) WILLFUL ACTIONS.—If an individual will-
 19 fully gives a false answer to a question described in
 20 subsection (a)(1), the individual shall be fined not
 21 more than \$10,000.”.

22 (b) RULES OF CONSTRUCTION.—If the provisions of
 23 section 111 of title 49, United States Code, are trans-
 24 ferred to chapter 63 of that title, the following rules of
 25 construction apply:

1 (1) For purposes of determining whether 1 pro-
 2 vision of law supersedes another based on enactment
 3 later in time, a chapter 63 provision is deemed to
 4 have been enacted on the date of enactment of the
 5 corresponding section 111 provision.

6 (2) A reference to a section 111 provision, in-
 7 cluding a reference in a regulation, order, or other
 8 law, is deemed to refer to the corresponding chapter
 9 63 provision.

10 (3) A regulation, order, or other administrative
 11 action in effect under a section 111 provision con-
 12 tinues in effect under the corresponding chapter 63
 13 provision.

14 (4) An action taken or an offense committed
 15 under a section 111 provision is deemed to have
 16 been taken or committed under the corresponding
 17 chapter 63 provision.

18 (c) CONFORMING AMENDMENTS.—

19 (1) REPEAL.—Section 111 of title 49, United
 20 States Code, is repealed, and the item relating to
 21 section 111 in the analysis of chapter 1 of that title
 22 is deleted.

23 (2) ANALYSIS OF SUBTITLE III.—The analysis
 24 for subtitle III of title 49, United States Code, is

1 amended by inserting after the items for chapter 61
2 the following:

“Chapter 63. Bureau of Transportation Statistics”.

3 **SEC. 2211. ADMINISTRATIVE AUTHORITY.**

4 Section 112 of title 49, United States Code, is
5 amended by adding at the end the following:

6 “(f) PROMOTIONAL AUTHORITY.—Amounts author-
7 ized to be appropriated for the administration and oper-
8 ation of the Research and Innovative Technology Adminis-
9 tration may be used to purchase promotional items of
10 nominal value for use by the Administrator of the Re-
11 search and Innovative Technology Administration in the
12 recruitment of individuals and promotion of the programs
13 of the Administration.

14 “(g) PROGRAM EVALUATION AND OVERSIGHT.—For
15 each of fiscal years 2012 and 2013, the Administrator
16 may expend not more than 1½ percent of the amounts
17 authorized to be appropriated for the administration and
18 operation of the Research and Innovative Technology Ad-
19 ministration to carry out the coordination, evaluation, and
20 oversight of the programs administered by the Administra-
21 tion.

22 “(h) COLLABORATIVE RESEARCH AND DEVELOP-
23 MENT.—

24 “(1) IN GENERAL.—To encourage innovative
25 solutions to multimodal transportation problems and

1 stimulate the deployment of new technology, the Ad-
2 ministrator may carry out, on a cost-shared basis,
3 collaborative research and development with—

4 “(A) non-Federal entities, including State
5 and local governments, foreign governments, in-
6 stitutions of higher education, corporations, in-
7 stitutions, partnerships, sole proprietorships,
8 and trade associations that are incorporated or
9 established under the laws of any State;

10 “(B) Federal laboratories; and

11 “(C) other Federal agencies.

12 “(2) COOPERATION, GRANTS, CONTRACTS, AND
13 AGREEMENTS.—Notwithstanding any other provision
14 of law, the Administrator may directly initiate con-
15 tracts, grants, cooperative research and development
16 agreements (as defined in section 12 of the Steven-
17 son-Wydler Technology Innovation Act of 1980 (15
18 U.S.C. 3710a)), and other agreements to fund, and
19 accept funds from, the Transportation Research
20 Board of the National Research Council of the Na-
21 tional Academy of Sciences, State departments of
22 transportation, cities, counties, institutions of higher
23 education, associations, and the agents of those enti-
24 ties to carry out joint transportation research and
25 technology efforts.

1 “(3) FEDERAL SHARE.—

2 “(A) IN GENERAL.—Subject to subpara-
3 graph (B), the Federal share of the cost of an
4 activity carried out under paragraph (2) shall
5 not exceed 50 percent.

6 “(B) EXCEPTION.—If the Secretary deter-
7 mines that the activity is of substantial public
8 interest or benefit, the Secretary may approve
9 a greater Federal share.

10 “(C) NON-FEDERAL SHARE.—All costs di-
11 rectly incurred by the non-Federal partners, in-
12 cluding personnel, travel, facility, and hardware
13 development costs, shall be credited toward the
14 non-Federal share of the cost of an activity de-
15 scribed in subparagraph (A).

16 “(4) USE OF TECHNOLOGY.—The research, de-
17 velopment, or use of a technology under a contract,
18 grant, cooperative research and development agree-
19 ment, or other agreement entered into under this
20 subsection, including the terms under which the
21 technology may be licensed and the resulting royal-
22 ties may be distributed, shall be subject to the Ste-
23 venson-Wydler Technology Innovation Act of 1980
24 (15 U.S.C. 3701 et seq.).

1 “(5) WAIVER OF ADVERTISING REQUIRE-
 2 MENTS.—Section 3709 of the Revised Statutes (41
 3 U.S.C. 5) shall not apply to a contract, grant, or
 4 other agreement entered into under this section.”.

5 **SEC. 2212. TRANSPORTATION RESEARCH AND DEVELOP-**
 6 **MENT STRATEGIC PLANNING.**

7 Section 508(a)(2) of title 23, United States Code, is
 8 amended by striking subparagraph (A) and inserting the
 9 following:

10 “(A) describe the primary purposes of the
 11 transportation research and development pro-
 12 gram, which shall include, at a minimum—

13 “(i) promoting safety;

14 “(ii) reducing congestion and improv-
 15 ing mobility;

16 “(iii) protecting and enhancing the
 17 environment;

18 “(iv) preserving the existing transpor-
 19 tation system;

20 “(v) improving the durability and ex-
 21 tending the life of transportation infra-
 22 structure; and

23 “(vi) improving goods movement;”.

1 **SEC. 2213. NATIONAL ELECTRONIC VEHICLE CORRIDORS**
2 **AND RECHARGING INFRASTRUCTURE NET-**
3 **WORK.**

4 (a) *IN GENERAL.*—Not later than 1 year after the date
5 of enactment of this Act, the Secretary shall establish a
6 stakeholder-driven process to develop a plan and map of
7 a potential national network of electric vehicle corridors
8 and recharging infrastructure.

9 (b) *REQUIREMENTS.*—The plan under subsection (a)
10 shall—

11 (1) *project the near- and long-term need for and*
12 *location of electric vehicle refueling infrastructure at*
13 *strategic locations across all major national high-*
14 *ways, roads, and corridors;*

15 (2) *identify infrastructure and standardization*
16 *needs for electricity providers, infrastructure pro-*
17 *viders, vehicle manufacturers, and electricity pur-*
18 *chasers; and*

19 (3) *establish an aspirational goal of achieving*
20 *strategic deployment of electric vehicle infrastructure*
21 *by 2020.*

22 (c) *STAKEHOLDERS.*—In developing the plan under
23 subsection (a), the Secretary shall involve, on a voluntary
24 basis, stakeholders that include—

25 (1) *the heads of other Federal agencies;*

26 (2) *State and local officials;*

- 1 (3) *representatives of—*
 2 (A) *energy utilities;*
 3 (B) *the vehicles industry;*
 4 (C) *the freight and shipping industry;*
 5 (D) *clean technology firms;*
 6 (E) *the hospitality industry;*
 7 (F) *the restaurant industry; and*
 8 (G) *highway rest stop vendors; and*
 9 (4) *such other stakeholders as the Secretary de-*
 10 *termines to be necessary.*

11 **Subtitle C—Funding *Intelligent***
 12 ***Transportation Systems Research***

13 **SEC. 2301. USE OF FUNDS FOR ITS ACTIVITIES.**

14 Section 513 of title 23, United States Code, is
 15 amended to read as follows:

16 **“§ 513. Use of funds for ITS activities.**

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

19 “(1) ELIGIBLE ENTITY.—The term ‘eligible en-
 20 tity’ means a State or local government, tribal gov-
 21 ernment, transit agency, public toll authority, metro-
 22 politan planning organization, other political subdivi-
 23 sion of a State or local government, or a multistate
 24 or multijurisdictional group applying through a sin-
 25 gle lead applicant.

1 “(2) MULTIJURISDICTIONAL GROUP.—The term
 2 ‘multijurisdictional group’ means a combination of
 3 State governments, local governments, metropolitan
 4 planning agencies, transit agencies, or other political
 5 subdivisions of a State that—

6 “(A) have signed a written agreement to
 7 implement an activity that meets the grant cri-
 8 teria under this section; and

9 “(B) is comprised of at least 2 members,
 10 each of whom is an eligible entity.

11 “(b) PURPOSE.—The purpose of this section is to de-
 12 velop, administer, communicate, and promote the use of
 13 products of research, technology, and technology transfer
 14 programs.

15 “(c) ITS DEPLOYMENT INCENTIVES.—

16 “(1) IN GENERAL.—The Secretary may—

17 “(A) develop and implement incentives to
 18 accelerate deployment of ITS technologies and
 19 services within all funding programs authorized
 20 by the MAP-21; and

21 “(B) for each fiscal year, use amounts
 22 made available to the Secretary to carry out in-
 23 telligent transportation systems outreach, in-
 24 cluding through the use of websites, public rela-
 25 tions, displays, tours, and brochures.

1 “(2) COMPREHENSIVE PLAN.—To carry out
2 this section, the Secretary shall develop a detailed
3 and comprehensive plan that addresses the manner
4 in which incentives may be adopted through the ex-
5 isting deployment activities carried out by surface
6 transportation modal administrations.

7 “(d) SYSTEM OPERATIONS AND ITS DEPLOYMENT
8 GRANT PROGRAM.—

9 “(1) ESTABLISHMENT.—The Secretary shall es-
10 tablish a competitive grant program to accelerate the
11 deployment, operation, systems management, inter-
12 modal integration, and interoperability of the ITS
13 program and ITS-enabled operational strategies—

14 “(A) to measure and improve the perform-
15 ance of the surface transportation system;

16 “(B) to reduce traffic congestion and the
17 economic and environmental impacts of traffic
18 congestion;

19 “(C) to minimize fatalities and injuries;

20 “(D) to enhance mobility of people and
21 goods;

22 “(E) to improve traveler information and
23 services; and

24 “(F) to optimize existing roadway capacity.

1 “(2) APPLICATION.—To be considered for a
2 grant under this subsection, an eligible entity shall
3 submit an application to the Secretary that in-
4 cludes—

5 “(A) a plan to deploy and provide for the
6 long-term operation and maintenance of intel-
7 ligent transportation systems to improve safety,
8 efficiency, system performance, and return on
9 investment, such as—

10 “(i) real-time integrated traffic, tran-
11 sit, and multimodal transportation infor-
12 mation;

13 “(ii) advanced traffic, freight, park-
14 ing, and incident management systems;

15 “(iii) advanced technologies to im-
16 prove transit and commercial vehicle oper-
17 ations;

18 “(iv) synchronized, adaptive, and
19 transit preferential traffic signals;

20 “(v) advanced infrastructure condition
21 assessment technologies; and

22 “(vi) other technologies to improve
23 system operations, including ITS applica-
24 tions necessary for multimodal systems in-

1 tegration and for achieving performance
2 goals;

3 “(B) quantifiable system performance im-
4 provements, including—

5 “(i) reductions in traffic-related
6 crashes, congestion, and costs;

7 “(ii) optimization of system efficiency;
8 and

9 “(iii) improvement of access to trans-
10 portation services;

11 “(C) quantifiable safety, mobility, and en-
12 vironmental benefit projections, including data
13 driven estimates of the manner in which the
14 project will improve the transportation system
15 efficiency and reduce traffic congestion in the
16 region;

17 “(D) a plan for partnering with the private
18 sector, including telecommunications industries
19 and public service utilities, public agencies (in-
20 cluding multimodal and multijurisdictional enti-
21 ties), research institutions, organizations rep-
22 resenting transportation and technology leaders,
23 and other transportation stakeholders;

24 “(E) a plan to leverage and optimize exist-
25 ing local and regional ITS investments; and

1 “(F) a plan to ensure interoperability of
2 deployed technologies with other tolling, traffic
3 management, and intelligent transportation sys-
4 tems.

5 “(3) SELECTION.—

6 “(A) IN GENERAL.—Not later than 1 year
7 after the date of enactment of the MAP-21, the
8 Secretary may provide grants to eligible entities
9 under this section.

10 “(B) GEOGRAPHIC DIVERSITY.—In award-
11 ing a grant under this section, the Secretary
12 shall ensure, to the maximum extent prac-
13 ticable, that grant recipients represent diverse
14 geographical areas of the United States, includ-
15 ing urban, suburban, and rural areas.

16 “(C) NON-FEDERAL SHARE.—In awarding
17 a grant under the section, the Secretary shall
18 give priority to grant recipients that dem-
19 onstrate an ability to contribute a significant
20 non-Federal share to the cost of carrying out
21 the project for which the grant is received.

22 “(4) ELIGIBLE USES.—Projects for which
23 grants awarded under this section may be used in-
24 clude—

1 “(A) the establishment and implementation
2 of ITS and ITS-enabled operations strategies
3 that improve performance in the areas of—

4 “(i) traffic operations;

5 “(ii) emergency response to surface
6 transportation incidents;

7 “(iii) incident management;

8 “(iv) transit and commercial vehicle
9 operations improvements;

10 “(v) weather event response manage-
11 ment by State and local authorities;

12 “(vi) surface transportation network
13 and facility management;

14 “(vii) construction and work zone
15 management;

16 “(viii) traffic flow information;

17 “(ix) freight management; and

18 “(x) congestion management;

19 “(B) carrying out activities that support
20 the creation of networks that link metropolitan
21 and rural surface transportation systems into
22 an integrated data network, capable of col-
23 lecting, sharing, and archiving transportation
24 system traffic condition and performance infor-
25 mation;

1 “(C) the implementation of intelligent
 2 transportation systems and technologies that
 3 improve highway safety through information
 4 and communications systems linking vehicles,
 5 infrastructure, mobile devices, transportation
 6 users, and emergency responders;

7 “(D) the provision of services necessary to
 8 ensure the efficient operation and management
 9 of ITS infrastructure, including costs associated
 10 with communications, utilities, rent, hardware,
 11 software, labor, administrative costs, training,
 12 and technical services;

13 “(E) the provision of support for the es-
 14 tablishment and maintenance of institutional
 15 relationships between transportation agencies,
 16 police, emergency medical services, private
 17 emergency operators, freight operators, ship-
 18 pers, ~~and public service utilities~~ *public service*
 19 *utilities*, and telecommunications providers;

20 “(F) carrying out multimodal and
 21 crossjurisdictional planning and deployment of
 22 regional transportation systems operations and
 23 management approaches; and

24 “(G) performing project evaluations to de-
 25 termine the costs, benefits, lessons learned, and

1 future deployment strategies associated with the
2 deployment of intelligent transportation sys-
3 tems.

4 “(5) REPORT TO SECRETARY.—For each fiscal
5 year that an eligible entity receives a grant under
6 this section, not later than 1 year after receiving
7 that grant, each recipient shall submit a report to
8 the Secretary that describes how the project has met
9 the expectations projected in the deployment plan
10 submitted with the application, including—

11 “(A) data on how the program has helped
12 reduce traffic crashes, congestion, costs, and
13 other benefits of the deployed systems;

14 “(B) data on the effect of measuring and
15 improving transportation system performance
16 through the deployment of advanced tech-
17 nologies;

18 “(C) the effectiveness of providing real-
19 time integrated traffic, transit, and multimodal
20 transportation information to the public that al-
21 lows the public to make informed travel deci-
22 sions; and

23 “(D) lessons learned and recommendations
24 for future deployment strategies to optimize

1 transportation efficiency and multimodal system
2 performance.

3 “(6) REPORT TO CONGRESS.—Not later than 2
4 years after date on which the first grant is awarded
5 under this section and annually thereafter for each
6 fiscal year for which grants are awarded under this
7 section, the Secretary shall submit to Congress a re-
8 port that describes the effectiveness of the grant re-
9 cipients in meeting the projected deployment plan
10 goals, including data on how the grant program
11 has—

12 “(A) reduced traffic-related fatalities and
13 injuries;

14 “(B) reduced traffic congestion and im-
15 proved travel time reliability;

16 “(C) reduced transportation-related emis-
17 sions;

18 “(D) optimized multimodal system per-
19 formance;

20 “(E) improved access to transportation al-
21 ternatives;

22 “(F) provided the public with access to
23 real-time integrated traffic, transit, and
24 multimodal transportation information to make
25 informed travel decisions;

1 “(G) provided cost savings to transpor-
2 tation agencies, businesses, and the traveling
3 public; and

4 “(H) provided other benefits to transpor-
5 tation users and the general public.

6 “(7) ADDITIONAL GRANTS.—If the Secretary
7 determines, based on a report submitted under para-
8 graph (5), that a grant recipient is not complying
9 with the established grant criteria, the Secretary
10 may—

11 “(A) cease payment to the recipient of any
12 remaining grant amounts; and

13 “(B) redistribute any remaining amounts
14 to other eligible entities under this section.

15 “(8) NON-FEDERAL SHARE.—The Federal
16 share of a grant under this section shall not exceed
17 50 percent of the cost of the project.

18 “(9) GRANT LIMITATION.—The Secretary may
19 not award more than 10 percent of the amounts pro-
20 vided under this section to a single grant recipient
21 in any fiscal year.

22 “(10) MULTIYEAR GRANTS.—Subject to avail-
23 ability of amounts, the Secretary may provide an eli-
24 gible entity with grant amounts for a period of mul-
25 tiple fiscal years.

1 “(11) FUNDING.—Of the funds authorized to
2 be appropriated to carry out the intelligent transpor-
3 tation system program under sections 512 through
4 518, not less than 50 percent of such funds shall be
5 used to carry out this subsection.”.

6 **SEC. 2302. GOALS AND PURPOSES.**

7 (a) IN GENERAL.—Chapter 5 of title 23, United
8 States Code, is amended by adding after section 513 the
9 following:

10 **“§ 514. Goals and purposes**

11 “(a) GOALS.—The goals of the intelligent transpor-
12 tation system program include—

13 “(1) enhancement of surface transportation ef-
14 ficiency and facilitation of intermodalism and inter-
15 national trade to enable existing facilities to meet a
16 significant portion of future transportation needs,
17 including public access to employment, goods, and
18 services and to reduce regulatory, financial, and
19 other transaction costs to public agencies and sys-
20 tem users;

21 “(2) achievement of national transportation
22 safety goals, including enhancement of safe oper-
23 ation of motor vehicles and nonmotorized vehicles
24 and improved emergency response to collisions, with

1 particular emphasis on decreasing the number and
2 severity of collisions;

3 “(3) protection and enhancement of the natural
4 environment and communities affected by surface
5 transportation, with particular emphasis on assisting
6 State and local governments to achieve national en-
7 vironmental goals;

8 “(4) accommodation of the needs of all users of
9 surface transportation systems, including operators
10 of commercial motor vehicles, passenger motor vehi-
11 cles, motorcycles, bicycles, and pedestrians (includ-
12 ing individuals with disabilities); and

13 “(5) enhancement of national defense mobility
14 and improvement of the ability of the United States
15 to respond to security-related or other manmade
16 emergencies and natural disasters.

17 “(b) PURPOSES.—The Secretary shall implement ac-
18 tivities under the intelligent transportation system pro-
19 gram, at a minimum—

20 “(1) to expedite, in both metropolitan and rural
21 areas, deployment and integration of intelligent
22 transportation systems for consumers of passenger
23 and freight transportation;

24 “(2) to ensure that Federal, State, and local
25 transportation officials have adequate knowledge of

1 intelligent transportation systems for consideration
2 in the transportation planning process;

3 “(3) to improve regional cooperation and oper-
4 ations planning for effective intelligent transpor-
5 tation system deployment;

6 “(4) to promote the innovative use of private
7 resources in support of intelligent transportation
8 system development;

9 “(5) to facilitate, in cooperation with the motor
10 vehicle industry, the introduction of vehicle-based
11 safety enhancing systems;

12 “(6) to support the application of intelligent
13 transportation systems that increase the safety and
14 efficiency of commercial motor vehicle operations;

15 “(7) to develop a workforce capable of devel-
16 oping, operating, and maintaining intelligent trans-
17 portation systems;

18 “(8) to provide continuing support for oper-
19 ations and maintenance of intelligent transportation
20 systems; and

21 “(9) to ensure a systems approach that includes
22 cooperation among vehicles, infrastructure, and
23 users.”.

1 (b) CONFORMING AMENDMENT.—The analysis for
 2 chapter 5 of title 23, United States Code, is amended by
 3 adding after the item relating to section 513 the following:
 “514. Goals and purposes.”.

4 **SEC. 2303. GENERAL AUTHORITIES AND REQUIREMENTS.**

5 (a) IN GENERAL.—Chapter 5 of title 23, United
 6 States Code, is amended by adding after section 514 (as
 7 added by section 2302) the following:

8 **“§ 515. General authorities and requirements**

9 “(a) SCOPE.—Subject to the provisions of this chap-
 10 ter, the Secretary shall conduct an ongoing intelligent
 11 transportation system program—

12 “(1) to research, develop, and operationally test
 13 intelligent transportation systems; and

14 “(2) to provide technical assistance in the na-
 15 tionwide application of those systems as a compo-
 16 nent of the surface transportation systems of the
 17 United States.

18 “(b) POLICY.—Intelligent transportation system re-
 19 search projects and operational tests funded pursuant to
 20 this chapter shall encourage and not displace public-pri-
 21 vate partnerships or private sector investment in those
 22 tests and projects.

23 “(c) COOPERATION WITH GOVERNMENTAL, PRI-
 24 VATE, AND EDUCATIONAL ENTITIES.—The Secretary
 25 shall carry out the intelligent transportation system pro-

1 gram in cooperation with State and local governments and
2 other public entities, the private sector firms of the United
3 States, the Federal laboratories, and institutions of higher
4 education, including historically Black colleges and univer-
5 sities and other minority institutions of higher education.

6 “(d) CONSULTATION WITH FEDERAL OFFICIALS.—
7 In carrying out the intelligent transportation system pro-
8 gram, the Secretary shall consult with the heads of other
9 Federal agencies, as appropriate.

10 “(e) TECHNICAL ASSISTANCE, TRAINING, AND IN-
11 FORMATION.—The Secretary may provide technical assist-
12 ance, training, and information to State and local govern-
13 ments seeking to implement, operate, maintain, or evalu-
14 ate intelligent transportation system technologies and
15 services.

16 “(f) TRANSPORTATION PLANNING.—The Secretary
17 may provide funding to support adequate consideration of
18 transportation systems management and operations, in-
19 cluding intelligent transportation systems, within metro-
20 politan and statewide transportation planning processes.

21 “(g) INFORMATION CLEARINGHOUSE.—

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

23 “(A) maintain a repository for technical
24 and safety data collected as a result of federally

1 sponsored projects carried out under this chap-
2 ter; and

3 “(B) make, on request, that information
4 (except for proprietary information and data)
5 readily available to all users of the repository at
6 an appropriate cost.

7 “(2) AGREEMENT.—

8 “(A) IN GENERAL.—The Secretary may
9 enter into an agreement with a third party for
10 the maintenance of the repository for technical
11 and safety data under paragraph (1)(A).

12 “(B) FEDERAL FINANCIAL ASSISTANCE.—

13 If the Secretary enters into an agreement with
14 an entity for the maintenance of the repository,
15 the entity shall be eligible for Federal financial
16 assistance under this section.

17 “(3) AVAILABILITY OF INFORMATION.—Infor-

18 mation in the repository shall not be subject to sec-
19 tions 552 and 555 of title 5, United States Code.

20 “(h) ADVISORY COMMITTEE.—

21 “(1) IN GENERAL.—The Secretary shall estab-
22 lish an Advisory Committee to advise the Secretary
23 on carrying out this chapter.

24 “(2) MEMBERSHIP.—The Advisory Committee
25 shall have no more than 20 members, be balanced

1 between metropolitan and rural interests, and in-
2 clude, at a minimum—

3 “(A) a representative from a State high-
4 way department;

5 “(B) a representative from a local highway
6 department who is not from a metropolitan
7 planning organization;

8 “(C) a representative from a State, local,
9 or regional transit agency;

10 “(D) a representative from a metropolitan
11 planning organization;

12 “(E) a private sector user of intelligent
13 transportation system technologies;

14 “(F) an academic researcher with expertise
15 in computer science or another information
16 science field related to intelligent transportation
17 systems, and who is not an expert on transpor-
18 tation issues;

19 “(G) an academic researcher who is a civil
20 engineer;

21 “(H) an academic researcher who is a so-
22 cial scientist with expertise in transportation
23 issues;

1 “(I) a representative from a nonprofit
2 group representing the intelligent transpor-
3 tation system industry;

4 “(J) a representative from a public interest
5 group concerned with safety;

6 “(K) a representative from a public inter-
7 est group concerned with the impact of the
8 transportation system on land use and residen-
9 tial patterns; and

10 “(L) members with expertise in planning,
11 safety, telecommunications, utilities, and oper-
12 ations.

13 “(3) DUTIES.—The Advisory Committee shall,
14 at a minimum, perform the following duties:

15 “(A) Provide input into the development of
16 the intelligent transportation system aspects of
17 the strategic plan under section 508.

18 “(B) Review, at least annually, areas of in-
19 telligent transportation systems research being
20 considered for funding by the Department, to
21 determine—

22 “(i) whether these activities are likely
23 to advance either the state-of-the-practice
24 or state-of-the-art in intelligent transpor-
25 tation systems;

1 “(ii) whether the intelligent transpor-
2 tation system technologies are likely to be
3 deployed by users, and if not, to determine
4 the barriers to deployment; and

5 “(iii) the appropriate roles for govern-
6 ment and the private sector in investing in
7 the research and technologies being consid-
8 ered.

9 “(4) REPORT.—Not later than February 1 of
10 each year after the date of enactment of the MAP-
11 21, the Secretary shall submit to Congress a report
12 that includes—

13 “(A) all recommendations made by the Ad-
14 visory Committee during the preceding calendar
15 year;

16 “(B) an explanation of the manner in
17 which the Secretary has implemented those rec-
18 ommendations; and

19 “(C) for recommendations not imple-
20 mented, the reasons for rejecting the rec-
21 ommendations.

22 “(5) APPLICABILITY OF FEDERAL ADVISORY
23 COMMITTEE ACT.—The Advisory Committee shall be
24 subject to the Federal Advisory Committee Act (5
25 U.S.C. App.).

1 “(i) REPORTING.—

2 “(1) GUIDELINES AND REQUIREMENTS.—

3 “(A) IN GENERAL.—The Secretary shall
4 issue guidelines and requirements for the re-
5 porting and evaluation of operational tests and
6 deployment projects carried out under this
7 chapter.

8 “(B) OBJECTIVITY AND INDEPENDENCE.—

9 The guidelines and requirements issued under
10 subparagraph (A) shall include provisions to en-
11 sure the objectivity and independence of the re-
12 porting entity so as to avoid any real or appar-
13 ent conflict of interest or potential influence on
14 the outcome by parties to any such test or de-
15 ployment project or by any other formal evalua-
16 tion carried out under this chapter.

17 “(C) FUNDING.—The guidelines and re-
18 quirements issued under subparagraph (A) shall
19 establish reporting funding levels based on the
20 size and scope of each test or project that en-
21 sure adequate reporting of the results of the
22 test or project.

23 “(2) SPECIAL RULE.—Any survey, question-
24 naire, or interview that the Secretary considers nec-
25 essary to carry out the reporting of any test, deploy-

1 ment project, or program assessment activity under
 2 this chapter shall not be subject to chapter 35 of
 3 title 44, United States Code.”.

4 (b) CONFORMING AMENDMENT.—The analysis for
 5 chapter 5 of title 23, United States Code, is amended by
 6 adding after the item relating to section 514 (as added
 7 by section 2302) the following:

“515. General authorities and requirements.”.

8 **SEC. 2304. RESEARCH AND DEVELOPMENT.**

9 (a) IN GENERAL.—Chapter 5 of title 23, United
 10 States Code, is amended by adding after section 515 (as
 11 added by section 2303) the following:

12 **“§ 516. Research and development**

13 “(a) IN GENERAL.—The Secretary shall carry out a
 14 comprehensive program of intelligent transportation sys-
 15 tem research and development, and operational tests of
 16 intelligent vehicles, intelligent infrastructure systems, and
 17 other similar activities that are necessary to carry out this
 18 chapter.

19 “(b) PRIORITY AREAS.—Under the program, the Sec-
 20 retary shall give higher priority to funding projects that—

21 “(1) enhance mobility and productivity through
 22 improved traffic management, incident management,
 23 transit management, freight management, road
 24 weather management, toll collection, traveler infor-

1 mation, or highway operations systems and remote
2 sensing products;

3 “(2) use interdisciplinary approaches to develop
4 traffic management strategies and tools to address
5 multiple impacts of congestion concurrently;

6 “(3) address traffic management, incident man-
7 agement, transit management, toll collection traveler
8 information, or highway operations systems;

9 “(4) incorporate research on the impact of envi-
10 ronmental, weather, and natural conditions on intel-
11 ligent transportation systems, including the effects
12 of cold climates;

13 “(5) enhance intermodal use of intelligent
14 transportation systems for diverse groups, including
15 for emergency and health-related services;

16 “(6) enhance safety through improved crash
17 avoidance and protection, crash and other notifica-
18 tion, commercial motor vehicle operations, and infra-
19 structure-based or cooperative safety systems; or

20 “(7) facilitate the integration of intelligent in-
21 frastructure, vehicle, and control technologies.

22 “(c) FEDERAL SHARE.—The Federal share payable
23 on account of any project or activity carried out under
24 subsection (a) shall not exceed 80 percent.”.

1 (b) CONFORMING AMENDMENT.—The analysis for
 2 chapter 5 of title 23, United States Code, is amended by
 3 adding after the item relating to section 515 (as added
 4 by section 2304) the following:

“516. Research and development.”.

5 **SEC. 2305. NATIONAL ARCHITECTURE AND STANDARDS.**

6 (a) IN GENERAL.—Chapter 5 of title 23, United
 7 States Code, is amended by adding after section 516 (as
 8 added by section 2304) the following:

9 **“§ 517. National architecture and standards.**

10 “(a) IN GENERAL.—

11 “(1) DEVELOPMENT, IMPLEMENTATION, AND
 12 MAINTENANCE.—In accordance with section 12(d) of
 13 the National Technology Transfer and Advancement
 14 Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783;
 15 115 Stat. 1241), the Secretary shall develop and
 16 maintain a national ITS architecture and supporting
 17 ITS standards and protocols to promote the use of
 18 systems engineering methods in the widespread de-
 19 ployment and evaluation of intelligent transportation
 20 systems as a component of the surface transpor-
 21 tation systems of the United States.

22 “(2) INTEROPERABILITY AND EFFICIENCY.—To
 23 the maximum extent practicable, the national ITS
 24 architecture and supporting ITS standards and pro-
 25 tocols shall promote interoperability among, and effi-

1 ciency of, intelligent transportation systems and
2 technologies implemented throughout the United
3 States.

4 “(3) USE OF STANDARDS DEVELOPMENT ORGA-
5 NIZATIONS.—In carrying out this section, the Sec-
6 retary shall support the development and mainte-
7 nance of standards and protocols using the services
8 of such standards development organizations as the
9 Secretary determines to be necessary and whose
10 memberships are comprised of, and represent, the
11 surface transportation and intelligent transportation
12 systems industries.

13 “(b) STANDARDS FOR NATIONAL POLICY IMPLEMEN-
14 TATION.—If the Secretary finds that a standard is nec-
15 essary for implementation of a nationwide policy relating
16 to user fee collection or other capability requiring nation-
17 wide uniformity, the Secretary, after consultation with
18 stakeholders, may establish and require the use of that
19 standard.

20 “(c) PROVISIONAL STANDARDS.—

21 “(1) IN GENERAL.—If the Secretary finds that
22 the development or balloting of an intelligent trans-
23 portation system standard jeopardizes the timely
24 achievement of the objectives described in subsection
25 (a), the Secretary may establish a provisional stand-

1 ard, after consultation with affected parties, using,
2 to the maximum extent practicable, the work prod-
3 uct of appropriate standards development organiza-
4 tions.

5 “(2) PERIOD OF EFFECTIVENESS.—A provi-
6 sional standard established under paragraph (1)
7 shall be published in the Federal Register and re-
8 main in effect until the appropriate standards devel-
9 opment organization adopts and publishes a stand-
10 ard.

11 “(d) CONFORMITY WITH NATIONAL ARCHITEC-
12 TURE.—

13 “(1) IN GENERAL.—Except as provided in para-
14 graph (2), the Secretary shall ensure that intelligent
15 transportation system projects carried out using
16 amounts made available from the Highway Trust
17 Fund, including amounts made available to deploy
18 intelligent transportation systems, conform to the
19 appropriate regional ITS architecture, applicable
20 standards, and protocols developed under subsection
21 (a) or (c).

22 “(2) DISCRETION OF THE SECRETARY.—The
23 Secretary, at the discretion of the Secretary, may
24 offer an exemption from paragraph (1) for projects
25 designed to achieve specific research objectives out-

1 lined in the national intelligent transportation sys-
 2 tem program plan or the surface transportation re-
 3 search and development strategic plan developed
 4 under section 508.”.

5 (b) CONFORMING AMENDMENT.—The analysis for
 6 chapter 5 of title 23, United States Code, is amended by
 7 adding after the item relating to section 516 (as added
 8 by section 2304) the following:

“517. National architecture and standards.”.

9 **SEC. 2306. 5.9 GHz VEHICLE-TO-VEHICLE AND VEHICLE-TO-**
 10 **INFRASTRUCTURE COMMUNICATIONS SYS-**
 11 **TEMS DEPLOYMENT.**

12 (a) IN GENERAL.—Chapter 5 of title 23, United
 13 States Code, is amended by adding after section 517 (as
 14 added by section 2305) the following:

15 **“§ 518. 5.9 GHz vehicle-to-vehicle and vehicle-to-infra-**
 16 **structure communications systems de-**
 17 **ployment**

18 “(a) IN GENERAL.—Not later than 3 years after the
 19 date of enactment of this section, the Secretary shall sub-
 20 mit to the appropriate committees of Congress a report
 21 that—

22 “(1) describes a recommended implementation
 23 path for dedicated short-range communications tech-
 24 nology and applications; and

1 “(2) includes guidance on the relationship of
 2 the proposed deployment of dedicated short-range
 3 communications to the National ITS Architecture
 4 and ITS Standards.

5 “(b) NATIONAL RESEARCH COUNCIL REVIEW.—The
 6 Secretary shall enter into an agreement with the National
 7 Research Council for the review by the National Research
 8 Council of the report described in subsection (a).”.

9 (b) CONFORMING AMENDMENT.—The analysis of
 10 chapter 5 of title 23, United States Code, is amended by
 11 adding after section 517 (as added by section 2305) the
 12 following:

 “518. 5.9 GHz vehicle-to-vehicle and vehicle-to-infrastructure communications
 systems deployment.”.

13 **TITLE III—AMERICA FAST FOR-**
 14 **WARD FINANCING INNOVA-**
 15 **TION**

16 **SEC. 3001. SHORT TITLE.**

17 This title may be cited as the “America Fast Forward
 18 Financing Innovation Act of 2011”.

19 **SEC. 3002. TRANSPORTATION INFRASTRUCTURE FINANCE**
 20 **AND INNOVATION ACT AMENDMENTS.**

21 Sections 601 through 609 of title 23, United States
 22 Code, are amended to read as follows:

1 **“§ 601. Generally applicable provisions**

2 “(a) DEFINITIONS.—In this chapter, the following
3 definitions apply:

4 “(1) ELIGIBLE PROJECT COSTS.—The term ‘eli-
5 gible project costs’ means amounts substantially all
6 of which are paid by, or for the account of, an obli-
7 gor in connection with a project, including the cost
8 of—

9 “(A) development phase activities, includ-
10 ing planning, feasibility analysis, revenue fore-
11 casting, environmental review, permitting, pre-
12 liminary engineering and design work, and
13 other preconstruction activities;

14 “(B) construction, reconstruction, rehabili-
15 tation, replacement, and acquisition of real
16 property (including land relating to the project
17 and improvements to land), environmental miti-
18 gation, construction contingencies, and acquisi-
19 tion of equipment; and

20 “(C) capitalized interest necessary to meet
21 market requirements, reasonably required re-
22 serve funds, capital issuance expenses, and
23 other carrying costs during construction.

24 “(2) FEDERAL CREDIT INSTRUMENT.—The
25 term ‘Federal credit instrument’ means a secured
26 loan, loan guarantee, or line of credit authorized to

1 be made available under this chapter with respect to
2 a project.

3 “(3) INVESTMENT-GRADE RATING.—The term
4 ‘investment-grade rating’ means a rating of BBB
5 minus, Baa3, bbb minus, BBB (low), or higher as-
6 signed by a rating agency to project obligations.

7 “(4) LENDER.—The term ‘lender’ means any
8 non-Federal qualified institutional buyer (as defined
9 in section 230.144A(a) of title 17, Code of Federal
10 Regulations (or any successor regulation), known as
11 Rule 144A(a) of the Securities and Exchange Com-
12 mission and issued under the Securities Act of 1933
13 (15 U.S.C. 77a et seq.)), including—

14 “(A) a qualified retirement plan (as de-
15 fined in section 4974(c) of the Internal Revenue
16 Code of 1986) that is a qualified institutional
17 buyer; and

18 “(B) a governmental plan (as defined in
19 section 414(d) of the Internal Revenue Code of
20 1986) that is a qualified institutional buyer.

21 “(5) LETTER OF INTEREST.—The term ‘letter
22 of interest’ means a letter submitted by a potential
23 applicant prior to an application for credit assistance
24 in a format prescribed by the Secretary on the
25 website of the TIFIA program, which—

1 “(A) describes the project and the location,
2 purpose, and cost of the project;

3 “(B) outlines the proposed financial plan,
4 including the requested credit assistance and
5 the proposed obligor;

6 “(C) provides a status of environmental re-
7 view; and

8 “(D) provides information regarding satis-
9 faction of other eligibility requirements of the
10 TIFIA program.

11 “(6) LINE OF CREDIT.—The term “‘line of
12 credit’” means an agreement entered into by the
13 Secretary with an obligor under section 604 to pro-
14 vide a direct loan at a future date upon the occur-
15 rence of certain events.

16 “(7) LIMITED BUYDOWN.—The term ‘limited
17 buydown’ means, subject to the conditions described
18 in section 603(b)(4)(C), a buydown of the interest
19 rate by the Secretary and by the obligor if the inter-
20 est rate has increased between—

21 “(A)(i) the date on which a project appli-
22 cation acceptable to the Secretary is submitted;
23 or

24 “(ii) the date on which the Secretary en-
25 tered into a master credit agreement; and

1 “(B) the date on which the Secretary exe-
2 cutes the Federal credit instrument.

3 “(8) LOAN GUARANTEE.—The term ‘loan guar-
4 antee’ means any guarantee or other pledge by the
5 Secretary to pay all or part of the principal of and
6 interest on a loan or other debt obligation issued by
7 an obligor and funded by a lender.

8 “(9) MASTER CREDIT AGREEMENT.—The term
9 ‘master credit agreement’ means an agreement to
10 extend credit assistance for a program of projects
11 secured by a common security pledge (which shall
12 receive an investment grade rating from a rating
13 agency), or for a single project covered under section
14 602(b)(2) that would—

15 “(A) make contingent commitments of 1 or
16 more secured loans or other Federal credit in-
17 struments at future dates, *subject to the avail-*
18 *ability of future funds being made available to*
19 *carry out this chapter;*

20 “(B) establish the maximum amounts and
21 general terms and conditions of the secured
22 loans or other Federal credit instruments;

23 “(C) identify the 1 or more dedicated non-
24 Federal revenue sources that will secure the re-

1 payment of the secured loans or secured Fed-
 2 eral credit instruments;

3 “(D) provide for the obligation of funds for
 4 the secured loans or secured Federal credit in-
 5 struments after all requirements have been met
 6 for the projects subject to the master credit
 7 agreement, including—

8 “(i) completion of an environmental
 9 impact statement or similar analysis re-
 10 quired under the National Environmental
 11 Policy Act of 1969 (42 U.S.C. 4321 et
 12 seq.); ~~and~~

13 “(ii) compliance with such other re-
 14 quirements as are specified in section
 15 602(c); and

16 “(iii) *the availability of funds to carry*
 17 *out this chapter; and*

18 “(E) require that contingent commitments
 19 result in a financial close and obligation of
 20 credit assistance not later than 3 years after
 21 the date of entry into the master credit agree-
 22 ment, or release of the commitment, unless oth-
 23 erwise extended by the Secretary.

24 “(10) OBLIGOR.—The term ‘obligor’ means a
 25 party that—

1 “(A) is primarily liable for payment of the
2 principal of or interest on a Federal credit in-
3 strument; and

4 “(B) may be a corporation, partnership,
5 joint venture, trust, or governmental entity,
6 agency, or instrumentality.

7 “(11) PROJECT.—The term ‘project’ means—

8 “(A) any surface transportation project eli-
9 gible for Federal assistance under this title or
10 chapter 53 of title 49;

11 “(B) a project for an international bridge
12 or tunnel for which an international entity au-
13 thorized under Federal or State law is respon-
14 sible;

15 “(C) a project for intercity passenger bus
16 or rail facilities and vehicles, including facilities
17 and vehicles owned by the National Railroad
18 Passenger Corporation and components of mag-
19 netic levitation transportation systems; and

20 “(D) a project that—

21 “(i) is a project—

22 “(I) for a public freight rail facil-
23 ity or a private facility providing pub-
24 lic benefit for highway users by way of

1 direct freight interchange between
 2 highway and rail carriers;

3 “(II) for an intermodal freight
 4 transfer facility;

5 “(III) for a means of access to a
 6 facility described in subclause (I) or
 7 (II);

8 “(IV) for a service improvement
 9 for a facility described in subclause
 10 (I) or (II) (including a capital invest-
 11 ment for an intelligent transportation
 12 system); or

13 “(V) that comprises a series of
 14 projects described in subclauses (I)
 15 through (IV) with the common objec-
 16 tive of improving the flow of goods;

17 “(ii) may involve the combining of pri-
 18 vate and public sector funds, including in-
 19 vestment of public funds in private sector
 20 facility improvements;

21 “(iii) if located within the boundaries
 22 of a port terminal, includes only such sur-
 23 face transportation infrastructure modi-
 24 fications 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-
igible 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
Exchange Act of 1934 (15 U.S.C. 78c(a))).

“(14) RURAL INFRASTRUCTURE PROJECT.—
The term ‘rural infrastructure project’ means a sur-

1 face transportation infrastructure project located in
2 any area other than an urbanized area that has a
3 population of greater than 200,000 inhabitants.

4 “(15) SECURED LOAN.—The term ‘secured
5 loan’ means a direct loan or other debt obligation
6 issued by an obligor and funded by the Secretary in
7 connection with the financing of a project under sec-
8 tion 603.

9 “(16) STATE.—The term ‘State’ has the mean-
10 ing given the term in section 101.

11 “(17) SUBSIDY AMOUNT.—The term ‘subsidy
12 amount’ means the amount of budget authority suf-
13 ficient to cover the estimated long-term cost to the
14 Federal Government of a Federal credit instrument,
15 calculated on a net present value basis, excluding
16 administrative costs and any incidental effects on
17 governmental receipts or outlays in accordance with
18 the Federal Credit Reform Act of 1990 (2 U.S.C.
19 661 et seq.).

20 “(18) SUBSTANTIAL COMPLETION.—The term
21 ‘substantial completion’ means—

22 “(A) the opening of a project to vehicular
23 or passenger traffic; or

1 “(B) a comparable event, as determined by
2 the Secretary and specified in the credit agree-
3 ment.

4 “(19) TIFIA PROGRAM.—The term ‘TIFIA
5 program’ means the transportation infrastructure fi-
6 nance and innovation program of the Department.

7 “(20) *CONTINGENT COMMITMENT.*—*The term*
8 *‘contingent commitment’ means a commitment to ob-*
9 *ligate an amount from future available budget au-*
10 *thority that is—*

11 “(A) *contingent upon those funds being*
12 *made available in law at a future date; and*

13 “(B) *not an obligation of the Federal Gov-*
14 *ernment.*

15 “(b) TREATMENT OF CHAPTER.—For purposes of
16 this title, this chapter shall be treated as being part of
17 chapter 1.

18 **“§ 602. Determination of eligibility and project selec-**
19 **tion**

20 “(a) ELIGIBILITY.—A project shall be eligible to re-
21 ceive credit assistance under this chapter if the entity pro-
22 posing to carry out the project submits a letter of interest
23 prior to submission of a formal application for the project,
24 and the project meets the following criteria:

25 “(1) CREDITWORTHINESS.—

1 “(A) IN GENERAL.—The project shall sat-
 2 isfy applicable creditworthiness standards,
 3 which, at a minimum, includes—

4 “(i) a rate covenant, if applicable;

5 “(ii) adequate coverage requirements
 6 to ensure repayment;

7 “(iii) an investment grade rating from
 8 at least 2 rating agencies on debt senior to
 9 the Federal credit instrument; and

10 “(iv) a rating from at least 2 rating
 11 agencies on the Federal credit instrument,
 12 subject to the condition that, with respect
 13 to ~~clauses (ii) and~~ *clause* (iii), if the senior
 14 debt and Federal credit instrument is for
 15 an amount less than \$75,000,000 or for a
 16 rural infrastructure project or intelligent
 17 transportation systems project, 1 rating
 18 agency opinion for each of the senior debt
 19 and Federal credit instrument shall be suf-
 20 ficient.

21 “(B) SENIOR DEBT.—Notwithstanding
 22 subparagraph (A), in a case in which the Fed-
 23 eral credit instrument is the senior debt, the
 24 Federal credit instrument shall be required to
 25 receive an investment grade rating from at least

1 2 rating agencies, unless the credit instrument
2 is for a rural infrastructure project or intel-
3 ligent transportation systems project, in which
4 case 1 rating agency opinion shall be sufficient.

5 “(2) INCLUSION IN TRANSPORTATION PLANS
6 AND PROGRAMS.—The project shall satisfy the appli-
7 cable planning and programming requirements of
8 sections 134 and 135 at such time as an agreement
9 to make available a Federal credit instrument is en-
10 tered into under this chapter.

11 “(3) APPLICATION.—A State, local government,
12 public authority, public-private partnership, or any
13 other legal entity undertaking the project and au-
14 thorized by the Secretary, shall submit a project ap-
15 plication acceptable to the Secretary.

16 “(4) ELIGIBLE PROJECT COSTS.—

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

22 “(i)(I) \$50,000,000; or

23 “(II) in the case of a rural infrastruc-
24 ture project, \$25,000,000; or

1 “(ii) $33\frac{1}{3}$ percent of the amount of
 2 Federal highway assistance funds appor-
 3 tioned for the most recently completed fis-
 4 cal year to the State in which the project
 5 is located.

6 “(B) INTELLIGENT TRANSPORTATION SYS-
 7 TEM PROJECTS.—In the case of a project prin-
 8 cipally involving the installation of an intelligent
 9 transportation system, eligible project costs
 10 shall be reasonably anticipated to equal or ex-
 11 ceed \$15,000,000.

12 “(5) DEDICATED REVENUE SOURCES.—The
 13 Federal credit instrument shall be repayable, in
 14 whole or in part, from tolls, user fees, or other dedi-
 15 cated revenue sources that also secure the project
 16 obligations.

17 “(6) PUBLIC SPONSORSHIP OF PRIVATE ENTI-
 18 TIES.—In the case of a project that is undertaken
 19 by an entity that is not a State or local government
 20 or an agency or instrumentality of a State or local
 21 government, the project that the entity is under-
 22 taking shall be publicly sponsored as provided in
 23 paragraph (2).

24 “(b) SELECTION AMONG ELIGIBLE PROJECTS.—

1 “(1) ESTABLISHMENT.—The Secretary shall es-
 2 tablish a rolling application process in which projects
 3 that are eligible to receive credit assistance under
 4 subsection (a) shall receive credit assistance on
 5 terms acceptable to the Secretary, if adequate funds
 6 are available to cover the subsidy costs associated
 7 with the Federal credit instrument.

8 “(2) ADEQUATE FUNDING NOT AVAILABLE.—

9 ~~“(A) IN GENERAL.~~—If the Secretary fully
 10 obligates funding to eligible projects in a given
 11 fiscal year, and adequate funding is not avail-
 12 able to fund a credit instrument, a project
 13 sponsor of an eligible project may elect to enter
 14 into a master credit agreement and wait until
 15 the following fiscal year *or until additional*
 16 *funds are available* to receive credit assistance;
 17 ~~or pay its own credit subsidy to permit an obli-~~
 18 ~~gation.~~

19 ~~“(B) USE OF FUNDS.—A project sponsor~~
 20 ~~may use *non-Federal funds* or any eligible funds~~
 21 ~~apportioned under chapter 1 of this title or~~
 22 ~~chapter 53 of title 49 to pay a credit subsidy~~
 23 ~~described in subparagraph (A).~~

24 “(3) PRELIMINARY RATING OPINION LETTER.—

25 The Secretary shall require each project applicant to

1 provide a preliminary rating opinion letter from at
 2 least 1 rating agency—

3 “(A) indicating that the senior obligations
 4 of the project, which may be the Federal credit
 5 instrument, have the potential to achieve an in-
 6 vestment-grade rating; and

7 “(B) including a preliminary rating opin-
 8 ion on the Federal credit instrument.

9 “(c) FEDERAL REQUIREMENTS.—

10 “(1) IN GENERAL.—In addition to the require-
 11 ments of this title for highway projects, chapter 53
 12 of title 49 for transit projects, and section 5333(a)
 13 of title 49 for rail projects, the following provisions
 14 of law shall apply to funds made available under this
 15 chapter and projects assisted with the funds:

16 “(A) Title VI of the Civil Rights Act of
 17 1964 (42 U.S.C. 2000d et seq.).

18 “(B) The National Environmental Policy
 19 Act of 1969 (42 U.S.C. 4321 et seq.).

20 “(C) The Uniform Relocation Assistance
 21 and Real Property Acquisition Policies Act of
 22 1970 (42 U.S.C. 4601 et seq.).

23 “(2) NEPA.—No funding shall be obligated for
 24 a project that has not received an environmental
 25 Categorical Exclusion, Finding of No Significant

1 Impact, or Record of Decision under the National
 2 Environmental Policy Act of 1969 (42 U.S.C. 4321
 3 et seq.).

4 **“§ 603. Secured loans**

5 “(a) IN GENERAL.—

6 “(1) AGREEMENTS.—Subject to paragraphs (2)
 7 through (4), the Secretary may enter into agree-
 8 ments with 1 or more obligors to make secured
 9 loans, the proceeds of which shall be used—

10 “(A) to finance eligible project costs of any
 11 project selected under section 602;

12 “(B) to refinance interim construction fi-
 13 nancing of eligible project costs of any project
 14 selected under section 602; ~~or~~

15 “(C) to refinance existing loan agreements
 16 for rural infrastructure projects; or

17 ~~“(C)~~(D) to refinance long-term project ob-
 18 ligations or Federal credit instruments if the re-
 19 financing provides additional funding capacity
 20 for the completion, enhancement, or expansion
 21 of any project that—

22 “(i) is selected under section 602; or

23 “(ii) otherwise meets the requirements
 24 of section 602.

1 “(2) LIMITATION ON REFINANCING OF INTERIM
2 CONSTRUCTION FINANCING.—A loan under para-
3 graph (1) shall not refinance interim construction fi-
4 nancing under paragraph (1)(B) later than 1 year
5 after the date of substantial completion of the
6 project.

7 “(3) RISK ASSESSMENT.—Before entering into
8 an agreement under this subsection, the Secretary,
9 in consultation with the Director of the Office of
10 Management and Budget, shall determine an appro-
11 priate capital reserve subsidy amount for each se-
12 cured loan, taking into account each rating letter
13 provided by an agency under section 602(b)(3)(B).

14 “(b) TERMS AND LIMITATIONS.—

15 “(1) IN GENERAL.—A secured loan under this
16 section with respect to a project shall be on such
17 terms and conditions and contain such covenants,
18 representations, warranties, and requirements (in-
19 cluding requirements for audits) as the Secretary de-
20 termines appropriate.

21 “(2) MAXIMUM AMOUNT.—The amount of the
22 secured loan shall not exceed the lesser of 49 per-
23 cent of the reasonably anticipated eligible project
24 costs or, if the secured loan does not receive an in-

vestment 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.

1 “(C) LIMITED BUYDOWNS.—A limited
2 buydown is subject to the following conditions:

3 “(i) The interest rate under the agree-
4 ment may not be lowered by more than the
5 lower of—

6 “(I) 1½ percentage points (150
7 basis points); or

8 “(II) the amount of the increase
9 in the interest rate.

10 “(ii) The Secretary may pay up to 50
11 percent of the cost of the limited buydown,
12 and the obligor shall pay the balance of the
13 cost of the limited buydown.

14 “(iii) Not more than 5 percent of the
15 funding made available annually to carry
16 out this chapter may be used to carry out
17 limited buydowns.

18 “(5) MATURITY DATE.—The final maturity
19 date of the secured loan shall be the lesser of—

20 “(A) 35 years after the date of substantial
21 completion of the project; or

22 “(B) if the useful life of the capital asset
23 being financed is of a lesser period, the useful
24 life of the asset.

25 “(6) NONSUBORDINATION.—

1 “(A) IN GENERAL.—Except as provided in
2 ~~subparagraphs (B) and (C)~~ *subparagraph (B)*,
3 the secured loan shall not be subordinated to
4 the claims of any holder of project obligations
5 in the event of bankruptcy, insolvency, or liq-
6 uidation of the obligor.

7 “(B) PRE-EXISTING INDENTURE.—

8 “(i) IN GENERAL.—The Secretary
9 shall waive subparagraph (A) for public
10 agency borrowers that are financing ongoing
11 capital programs and have outstanding
12 senior bonds under a pre-existing inden-
13 ture, if—

14 “(I) the secured loan is rated in
15 the A-category or higher;

16 “(II) the secured loan is secured
17 and payable from pledged revenues
18 not affected by project performance,
19 such as a tax-backed revenue pledge
20 or a system-backed pledge of project
21 revenues; and

22 “(III) the TIFIA program share
23 of eligible project costs is 33 percent
24 or less.

1 “(ii) LIMITATION.—If the Secretary
2 waives the nonsubordination requirement
3 under this subparagraph—

4 “(I) the maximum credit subsidy
5 that will be paid by the Federal Gov-
6 ernment shall be limited to 10 percent
7 of the principal amount of the secured
8 loan; and

9 “(II) the obligor shall be respon-
10 sible for paying the remainder of the
11 subsidy cost.

12 “(7) FEES.—The Secretary may establish fees
13 at a level sufficient to cover all or a portion of the
14 costs to the Federal Government of making a se-
15 cured loan under this section.

16 “(8) NON-FEDERAL SHARE.—The proceeds of a
17 secured loan under this chapter may be used for any
18 non-Federal share of project costs required under
19 this title or chapter 53 of title 49, if the loan is re-
20 payable from non-Federal funds.

21 “(9) MAXIMUM FEDERAL INVOLVEMENT.—The
22 total Federal assistance provided on a project receiv-
23 ing a loan under this chapter shall not exceed 80
24 percent of the total project cost.

25 “(c) REPAYMENT.—

1 “(1) SCHEDULE.—The Secretary shall establish
2 a repayment schedule for each secured loan under
3 this section based on the projected cash flow from
4 project revenues and other repayment sources, and
5 the useful life of the project.

6 “(2) COMMENCEMENT.—Scheduled loan repay-
7 ments of principal or interest on a secured loan
8 under this section shall commence not later than 5
9 years after the date of substantial completion of the
10 project.

11 “(3) DEFERRED PAYMENTS.—

12 “(A) AUTHORIZATION.—If, at any time
13 after the date of substantial completion of the
14 project, the project is unable to generate suffi-
15 cient revenues to pay the scheduled loan repay-
16 ments of principal and interest on the secured
17 loan, the Secretary may, subject to subpara-
18 graph (C), allow the obligor to add unpaid prin-
19 cipal and interest to the outstanding balance of
20 the secured loan.

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

23 “(i) continue to accrue interest in ac-
24 cordance with subsection (b)(4) until fully
25 repaid; and

1 “(ii) be scheduled to be amortized
2 over the remaining term of the loan.

3 “(C) CRITERIA.—

4 “(i) IN GENERAL.—Any payment de-
5 ferral under subparagraph (A) shall be
6 contingent on the project meeting criteria
7 established by the Secretary.

8 “(ii) REPAYMENT STANDARDS.—The
9 criteria established under clause (i) shall
10 include standards for reasonable assurance
11 of repayment.

12 “(4) PREPAYMENT.—

13 “(A) USE OF EXCESS REVENUES.—Any
14 excess revenues that remain after satisfying
15 scheduled debt service requirements on the
16 project obligations and secured loan and all de-
17 posit requirements under the terms of any trust
18 agreement, bond resolution, or similar agree-
19 ment securing project obligations may be ap-
20 plied annually to prepay the secured loan with-
21 out penalty.

22 “(B) USE OF PROCEEDS OF REFI-
23 NANCING.—The secured loan may be prepaid at
24 any time without penalty from the proceeds of
25 refinancing from non-Federal funding sources.

1 “(d) SALE OF SECURED LOANS.—

2 “(1) IN GENERAL.—Subject to paragraph (2),
3 as soon as practicable after substantial completion of
4 a project and after notifying the obligor, the Sec-
5 retary may sell to another entity or reoffer into the
6 capital markets a secured loan for the project if the
7 Secretary determines that the sale or reoffering can
8 be made on favorable terms.

9 “(2) CONSENT OF OBLIGOR.—In making a sale
10 or reoffering under paragraph (1), the Secretary
11 may not change the original terms and conditions of
12 the secured loan without the written consent of the
13 obligor.

14 “(e) LOAN GUARANTEES.—

15 “(1) IN GENERAL.—The Secretary may provide
16 a loan guarantee to a lender in lieu of making a se-
17 cured loan if the Secretary determines that the
18 budgetary cost of the loan guarantee is substantially
19 the same as that of a secured loan.

20 “(2) TERMS.—The terms of a guaranteed loan
21 shall be consistent with the terms set forth in this
22 section for a secured loan, except that the rate on
23 the guaranteed loan and any prepayment features
24 shall be negotiated between the obligor and the lend-
25 er, with the consent of the Secretary.

1 **“§ 604. Lines of credit**

2 “(a) IN GENERAL.—

3 “(1) AGREEMENTS.—Subject to paragraphs (2)
4 through (4), the Secretary may enter into agree-
5 ments to make available lines of credit to 1 or more
6 obligors in the form of direct loans to be made by
7 the Secretary at future dates on the occurrence of
8 certain events for any project selected under section
9 602.

10 “(2) USE OF PROCEEDS.—The proceeds of a
11 line of credit made available under this section shall
12 be available to pay debt service on project obliga-
13 tions issued to finance eligible project costs, extraor-
14 dinary repair and replacement costs, operation and
15 maintenance expenses, and costs associated with un-
16 expected Federal or State environmental restrictions.

17 “(3) RISK ASSESSMENT.—Before entering into
18 an agreement under this subsection, the Secretary,
19 in consultation with the Director of the Office of
20 Management and Budget and each rating agency
21 providing a preliminary rating opinion letter under
22 section 602(b)(3), shall determine an appropriate
23 capital reserve subsidy amount for each line of cred-
24 it, taking into account the rating opinion letter.

25 “(4) INVESTMENT-GRADE RATING REQUIRE-
26 MENT.—The funding of a line of credit under this

1 section shall be contingent on the senior obligations
2 of the project receiving an investment-grade rating
3 from 2 rating agencies.

4 “(b) TERMS AND LIMITATIONS.—

5 “(1) IN GENERAL.—A line of credit under this
6 section with respect to a project shall be on such
7 terms and conditions and contain such covenants,
8 representations, warranties, and requirements (in-
9 cluding requirements for audits) as the Secretary de-
10 termines appropriate.

11 “(2) MAXIMUM AMOUNTS.—The total amount
12 of the line of credit shall not exceed 33 percent of
13 the reasonably anticipated eligible project costs.

14 “(3) DRAWS.—Any draw on the line of credit
15 shall represent a direct loan and shall be made only
16 if net revenues from the project (including capital-
17 ized interest but not including reasonably required
18 financing reserves) are insufficient to pay the costs
19 specified in subsection (a)(2).

20 “(4) INTEREST RATE.—Except as otherwise
21 provided in subparagraphs (B) and (C) of section
22 603(b)(4), the interest rate on a direct loan result-
23 ing from a draw on the line of credit shall be not
24 less than the yield on 30-year United States Treas-

1 ury securities as of the date of execution of the line
2 of credit agreement.

3 “(5) SECURITY.—The line of credit—

4 “(A) shall—

5 “(i) be payable, in whole or in part,
6 from tolls, user fees, or other dedicated
7 revenue sources that also secure the senior
8 project obligations; and

9 “(ii) include a rate covenant, coverage
10 requirement, or similar security feature
11 supporting the project obligations; and

12 “(B) may have a lien on revenues de-
13 scribed in subparagraph (A) subject to any lien
14 securing project obligations.

15 “(6) PERIOD OF AVAILABILITY.—The full
16 amount of the line of credit, to the extent not drawn
17 upon, shall be available during the period beginning
18 on the date of substantial completion of the project
19 and ending not later than 10 years after that date.

20 “(7) RIGHTS OF THIRD-PARTY CREDITORS.—

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

1 “(B) ASSIGNMENT.—An obligor may as-
 2 sign the line of credit to 1 or more lenders or
 3 to a trustee on the behalf of the lenders.

4 “(8) NONSUBORDINATION.—

5 “(A) IN GENERAL.—Except as provided in
 6 subparagraphs (B) and (C), a direct loan under
 7 this section shall not be subordinated to the
 8 claims of any holder of project obligations in
 9 the event of bankruptcy, insolvency, or liquida-
 10 tion of the obligor.

11 “(B) PRE-EXISTING INDENTURE.—

12 “(i) IN GENERAL.—The Secretary
 13 shall waive subparagraph (A) for public
 14 agency borrowers that are financing ongoing
 15 capital programs and have outstanding
 16 senior bonds under a pre-existing inden-
 17 ture, if—

18 “(I) the line of credit is rated in
 19 the A-category or higher;

20 “(II) the TIFIA program loan
 21 resulting from a draw on the line of
 22 credit is payable from pledged reve-
 23 nues not affected by project perform-
 24 ance, such as a tax-backed revenue

1 pledge or a system-backed pledge of
2 project revenues; and

3 “(III) the TIFIA program share
4 of eligible project costs is 33 percent
5 or less.

6 “(ii) LIMITATION.—If the Secretary
7 waives the nonsubordination requirement
8 under this subparagraph—

9 “(I) the maximum credit subsidy
10 that will be paid by the Federal Gov-
11 ernment shall be limited to 10 percent
12 of the principal amount of the secured
13 loan; and

14 “(II) the obligor shall be respon-
15 sible for paying the remainder of the
16 subsidy cost.

17 “(9) FEES.—The Secretary may establish fees
18 at a level sufficient to cover all or a portion of the
19 costs to the Federal Government of providing a line
20 of credit under this section.

21 “(10) RELATIONSHIP TO OTHER CREDIT IN-
22 STRUMENTS.—A project that receives a line of credit
23 under this section shall not also receive a secured
24 loan or loan guarantee under section 603 in an

1 amount that, combined with the amount of the line
2 of credit, exceeds 49 percent of eligible project costs.

3 “(c) REPAYMENT.—

4 “(1) TERMS AND CONDITIONS.—The Secretary
5 shall establish repayment terms and conditions for
6 each direct loan under this section based on the pro-
7 jected cash flow from project revenues and other re-
8 payment sources, and the useful life of the asset
9 being financed.

10 “(2) TIMING.—All repayments of principal or
11 interest on a direct loan under this section shall be
12 scheduled to commence not later than 5 years after
13 the end of the period of availability specified in sub-
14 section (b)(6) and to conclude, with full repayment
15 of principal and interest, by the date that is 25
16 years after the end of the period of availability speci-
17 fied in subsection (b)(6).

18 **“§ 605. Program administration**

19 “(a) REQUIREMENT.—The Secretary shall establish
20 a uniform system to service the Federal credit instruments
21 made available under this chapter.

22 “(b) FEES.—The Secretary may collect and spend
23 fees, contingent upon authority being provided in appro-
24 priations Acts, at a level that is sufficient to cover—

1 “(1) the costs of services of expert firms re-
2 tained pursuant to subsection (d); and

3 “(2) all or a portion of the costs to the Federal
4 Government of servicing the Federal credit instru-
5 ments.

6 “(c) SERVICER.—

7 “(1) IN GENERAL.—The Secretary may appoint
8 a financial entity to assist the Secretary in servicing
9 the Federal credit instruments.

10 “(2) DUTIES.—The servicer shall act as the
11 agent for the Secretary.

12 “(3) FEE.—The servicer shall receive a serv-
13 icing fee, subject to approval by the Secretary.

14 “(d) ASSISTANCE FROM EXPERT FIRMS.—The Sec-
15 retary may retain the services of expert firms, including
16 counsel, in the field of municipal and project finance to
17 assist in the underwriting and servicing of Federal credit
18 instruments.

19 **“§ 606. State and local permits**

20 “The provision of credit assistance under this chapter
21 with respect to a project shall not—

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

1 “(2) limit the right of any unit of State or local
2 government to approve or regulate any rate of re-
3 turn on private equity invested in the project; or

4 “(3) otherwise supersede any State or local law
5 (including any regulation) applicable to the construc-
6 tion or operation of the project.

7 **“§ 607. Regulations**

8 “The Secretary may promulgate such regulations as
9 the Secretary determines appropriate to carry out this
10 chapter.

11 **“§ 608. Funding**

12 “(a) FUNDING.—

13 “(1) SPENDING AND BORROWING AUTHOR-
14 ITY.—Spending and borrowing authority for a fiscal
15 year to enter into Federal credit instruments shall
16 be promptly apportioned to the Secretary on a fiscal
17 year basis.

18 “(2) REESTIMATES.—When the estimated cost
19 of a loan or loans is reestimated, the cost of the re-
20 estimate shall be borne by or benefit the general
21 fund of the Treasury, consistent with section 661c(f)
22 of title 2, United States Code.

23 “(3) RURAL SET-ASIDE.—

24 “(A) IN GENERAL.—Of the total amount
25 of funds made available to carry out this chap-

1 ter for each fiscal year, 10 percent shall be set
2 aside for rural infrastructure projects.

3 “(B) REOBLIGATION.—Any amounts set
4 aside under subparagraph (A) that remain un-
5 obligated by June 1 of the fiscal year for which
6 the amounts were set aside shall be available
7 for obligation by the Secretary on projects other
8 than rural infrastructure projects.

9 “(4) REDISTRIBUTION OF AUTHORIZED FUND-
10 ING.—

11 “(A) IN GENERAL.—Beginning ~~for~~ *in* the
12 second fiscal year after the date of enactment
13 of this paragraph, on August 1 of that fiscal
14 year, and each fiscal year thereafter, if the un-
15 obligated and uncommitted balance of funding
16 available exceeds 150 percent of the amount
17 made available to carry out this chapter for
18 that fiscal year, the Secretary shall distribute to
19 the States the amount of funds and associated
20 obligation authority in excess of that amount.

21 “(B) DISTRIBUTION.—The amounts and
22 obligation authority distributed under this para-
23 graph shall be distributed, in the same manner
24 as obligation authority is distributed to the

1 States for the fiscal year, based on the propor-
2 tion that—

3 “(i) the relative share of each State of
4 obligation authority for the fiscal year;
5 bears to

6 “(ii) the total amount of obligation
7 authority distributed to all States for the
8 fiscal year.

9 “(C) PURPOSE.—Funds distributed under
10 subparagraph (B) shall be available for any
11 purpose described in section 133(c).

12 “(5) AVAILABILITY.—Amounts made available
13 to carry out this chapter shall remain available until
14 expended.

15 “(6) ADMINISTRATIVE COSTS.—Of the amounts
16 made available to carry out this chapter, the Sec-
17 retary may use not more than 1 percent for each fis-
18 cal year for the administration of this chapter.

19 “(b) CONTRACT AUTHORITY.—

20 “(1) IN GENERAL.—Notwithstanding any other
21 provision of law, execution of a term sheet by the
22 Secretary of a Federal credit instrument that uses
23 amounts made available under this chapter shall im-
24 pose on the United States a contractual obligation to
25 fund the Federal credit investment.

1 “(2) AVAILABILITY.—Amounts made available
 2 to carry out this chapter for a fiscal year shall be
 3 available for obligation on October 1 of the fiscal
 4 year.

5 **“§ 609. Reports to Congress**

6 “On June 1, 2012, and every 2 years thereafter, the
 7 Secretary shall submit to Congress a report summarizing
 8 the financial performance of the projects that are receiv-
 9 ing, or have received, assistance under this chapter (other
 10 than section 610), including a recommendation as to
 11 whether the objectives of this chapter (other than section
 12 610) are best served—

13 “(1) by continuing the program under the au-
 14 thority of the Secretary;

15 “(2) by establishing a Federal corporation or
 16 federally sponsored enterprise to administer the pro-
 17 gram; or

18 “(3) by phasing out the program and relying on
 19 the capital markets to fund the types of infrastruc-
 20 ture investments assisted by this chapter (other than
 21 section 610) without Federal participation.”.

22 **SEC. 3003. STATE INFRASTRUCTURE BANKS.**

23 Section 610(d)(1)(A) of title 23, United States Code,
 24 is amended by striking “sections 104(b)(1)” and all that

1 follows though the semicolon and inserting “paragraphs
2 (1) and (2) of section 104(b)”.

3 **TITLE IV—HIGHWAY SPENDING** 4 **CONTROLS**

5 **SEC. 4001. HIGHWAY SPENDING CONTROLS.**

6 (a) IN GENERAL.—Title 23, United States Code, is
7 amended by adding at the end the following:

CHAPTER 7—HIGHWAY SPENDING CONTROLS

Sec.

701. Solvency of Highway Account of the Highway Trust Fund.

8 **“SEC. 701. SOLVENCY OF HIGHWAY ACCOUNT OF THE HIGH-** 9 **WAY TRUST FUND.**

10 ~~“(a) SOLVENCY CALCULATION FOR FISCAL YEAR~~
11 ~~2012.—Not later than 60 days after the date of enactment~~
12 ~~of the MAP-21, the Secretary, in consultation with the~~
13 ~~Secretary of Treasury, shall—~~

14 ~~“(1) estimate the balance of the Highway Trust~~
15 ~~Fund (other than the Mass Transit Account) at the~~
16 ~~end of such fiscal year and the end of the next fiscal~~
17 ~~year, for purposes of which estimation the Secretary~~
18 ~~shall assume that the obligation limitation on Fed-~~
19 ~~eral-aid highways and highway safety construction~~
20 ~~programs is equal to the obligation limitations en-~~
21 ~~acted for those fiscal years in the MAP-21;~~

1 “(2) determine if the estimated balance of the
2 Highway Trust Fund (other than the Mass Transit
3 Account) would fall below—

4 “(A) \$2,000,000,000 at the end of the fis-
5 cal year for which the obligation limitation is
6 being distributed; or

7 “(B) \$1,000,000,000 at the end of the
8 next fiscal year;

9 “(3) if either of the conditions in paragraph (1)
10 would occur, calculate the amount by which the obli-
11 gation limitation in the fiscal year for which the obli-
12 gation limitation is being distributed must be re-
13 duced to prevent such occurrence, for purposes of
14 which calculation the Secretary shall assume that
15 the obligation limitation on Federal-aid highways
16 and highway safety construction programs for the
17 next fiscal year is equal to the obligation limitation
18 for the fiscal year for which the limitation is being
19 distributed as reduced pursuant to this subpara-
20 graph;

21 “(4) distribute such obligation limitation, less
22 any amount determined under paragraph (3);

23 “(5) ensure that any obligation limitation that
24 is withheld from distribution pursuant to paragraph

(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-

1 *struction programs will be equal to the obliga-*
 2 *tion limitations enacted for those fiscal years in*
 3 *the MAP-21.*

4 *“(B) Determine if the estimated balance of*
 5 *the Highway Trust Fund (other than the Mass*
 6 *Transit Account) would fall below—*

7 *“(i) \$2,000,000,000 at the end of fiscal*
 8 *year 2012; or*

9 *“(ii) \$1,000,000,000 at the end of fiscal*
 10 *year 2013.*

11 *“(C) If either of the conditions in subpara-*
 12 *graph (B) would occur, calculate the amount by*
 13 *which the fiscal year 2012 obligation limitation*
 14 *must be reduced to prevent such occurrence. For*
 15 *purposes of this calculation, the Secretary shall*
 16 *assume that the obligation limitation on Fed-*
 17 *eral-aid highways and highway safety construc-*
 18 *tion programs for the fiscal year 2013 will be*
 19 *equal to the obligation limitation for fiscal year*
 20 *2012, as reduced pursuant to this subparagraph.*

21 *“(D) Adjust the distribution of the fiscal*
 22 *year 2012 obligation limitation to reflect any re-*
 23 *duction determined under subparagraph (C).*

24 *“(2) LAPSE AND RESCISSION.—*

1 “(A) *LAPSE OF OBLIGATION LIMITATION.*—
 2 *Any obligation limitation that is withdrawn by*
 3 *the Secretary pursuant to paragraph (1)(D)*
 4 *shall lapse immediately following the adjustment*
 5 *of obligation limitation under such paragraph.*

6 “(B) *RESCISSION OF CONTRACT AUTHOR-*
 7 *ITY.*—*Upon the lapse of any obligation limita-*
 8 *tion under subparagraph (A), the Secretary shall*
 9 *reduce proportionately the amount authorized to*
 10 *be appropriated from the Highway Trust Fund*
 11 *(other than the Mass Transit Account) for fiscal*
 12 *year 2012 to carry out each of the Federal-aid*
 13 *highway and highway safety construction pro-*
 14 *grams (other than emergency relief and funds*
 15 *under the national highway performance pro-*
 16 *gram that are exempt from the fiscal year 2012*
 17 *obligation limitation) by an aggregate amount*
 18 *equal to the amount of adjustment determined*
 19 *pursuant to paragraph (1)(D). The amounts*
 20 *withdrawn pursuant to this subparagraph are*
 21 *permanently rescinded.*

22 “(b) *SOLVENCY CALCULATION FOR FISCAL YEAR*
 23 *2013 AND FISCAL YEARS THEREAFTER.*—

24 “(1) *ADJUSTMENT OF OBLIGATION LIMITA-*
 25 *TION.*—*Except as provided in paragraph (2), in dis-*

1 tributing the obligation limitation on Federal-aid
2 highways and highway safety construction programs
3 for fiscal year 2013 and each fiscal year thereafter,
4 the Secretary shall—

5 “(A) estimate the balance of the Highway
6 Trust Fund (other than the Mass Transit Ac-
7 count) at the end of such fiscal year and the
8 end of the next fiscal year, for purposes of
9 which estimation, the Secretary shall assume
10 that the obligation limitation on Federal-aid
11 highways and highway safety construction pro-
12 grams for the next fiscal year ~~is~~ *will be* equal
13 to the obligation limitation enacted for the fis-
14 cal year for which the limitation is being dis-
15 tributed;

16 “(B) determine if the estimated balance of
17 the Highway Trust Fund (other than the Mass
18 Transit Account) would fall below—

19 “(i) \$2,000,000,000 at the end of the
20 fiscal year for which the obligation limita-
21 tion is being distributed; or

22 “(ii) \$1,000,000,000 at the end of the
23 next fiscal year;

24 “(C) if either of the conditions in subpara-
25 graph (B) would occur, calculate the amount by

1 which the obligation limitation in the fiscal year
2 for which the obligation limitation is being dis-
3 tributed must be reduced to prevent such occur-
4 rence; and

5 “(D) distribute such obligation limitation
6 less any amount determined under subpara-
7 graph (C).

8 “(2) LAPSE AND RESCISSION.—

9 “(A) OBLIGATION LIMITATION.—

10 “(i) RECALCULATION.—In a fiscal
11 year in which the Secretary withholds obli-
12 gation limitation based on the calculation
13 under paragraph (1), the Secretary shall,
14 on March 1 of such fiscal year, repeat the
15 calculations under subparagraphs (A)
16 through (C) of such paragraph. Based on
17 the results of those calculations, the Sec-
18 retary shall—

19 “(I) if the Secretary determines
20 that either of the conditions in para-
21 graph (1)(B) would occur, withdraw
22 an additional amount of obligation
23 limitation necessary to prevent such
24 occurrence; or

1 “(II) distribute as much of the
 2 withheld obligation limitation as may
 3 be distributed without causing either
 4 of the conditions specified in para-
 5 graph (1)(B) to occur.

6 “(ii) LAPSE.—Any obligation limita-
 7 tion that is enacted for a fiscal year, with-
 8 held from distribution pursuant to para-
 9 graph (1)(D) (or withdrawn under clause
 10 (i)(I)), and not subsequently distributed
 11 under clause (i)(II) shall lapse immediately
 12 following the distribution of obligation lim-
 13 itation under such ~~paragraph~~ *clause*.

14 “(B) CONTRACT AUTHORITY.—

15 “(i) IN GENERAL.—Upon the lapse of
 16 any obligation limitation under subpara-
 17 graph (A)(ii), an equal amount of the un-
 18 obligated balances of funds apportioned
 19 among the States under chapter 1 and sec-
 20 tions 1116, 1303, and 1404 of the
 21 SAFETEA-LU (119 Stat. 1177, 1207,
 22 and 1228) are permanently rescinded. In
 23 administering the rescission required under
 24 this ~~subparagraph~~ *clause*, the Secretary
 25 shall allow each State to determine the

1 amount of the required rescission to be
2 drawn from the programs to which the re-
3 scission applies, except as provided in
4 clause (ii).

5 “(ii) RESCISSION OF FUNDS APPOR-
6 TIONED IN FISCAL YEAR 2013 AND FISCAL
7 YEARS THEREAFTER.—If a State deter-
8 mines that it will meet any of its required
9 rescission amount from funds apportioned
10 to such State on or subsequent to October
11 1, 2012, the Secretary shall determine the
12 amount to be rescinded from each of the
13 programs subject to the rescission for
14 which the State was apportioned funds on
15 or subsequent to October 1, 2012, in pro-
16 portion to the cumulative amount of appor-
17 tionments that the State received for each
18 such program on or subsequent to October
19 1, 2012.

20 “(3) OTHER ACTIONS TO PREVENT INSOL-
21 VENCY.—The Secretary shall issue a regulation to
22 establish any actions in addition to those described
23 in *subsection (a) and* paragraph (1) that may be
24 taken by the Secretary if it becomes apparent that
25 the Highway Trust Fund (other than the Mass

1 Transit Account) will become insolvent, including
 2 the denial of further obligations.

3 “(4) APPLICABLE ONLY TO FULL-YEAR LIMITA-
 4 TION.—The requirements of paragraph (1) apply
 5 only to the distribution of a full-year obligation limi-
 6 tation and do not apply to partial-year limitations
 7 under continuing appropriations Acts.”.

8 (b) TABLE OF CHAPTERS.—The table of chapters for
 9 title 23, United States Code, is amended by inserting after
 10 the item relating to chapter 6 the following:

“7. Highway Spending Controls 701”.

Calendar No. 311

112TH CONGRESS
2^D Session

S. 1813

A BILL

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

FEBRUARY 6, 2012

Reported with amendments